

Queen Ka‘ahumanu Highway Widening Project Agenda

106 Consultation Meeting

December 17, 2020

9:00 am to 12:00 pm

Meeting Minutes

In Attendance:

Richelle Takara (FHWA)
Meesa Otani (FHWA)
Lisa Powell (FHWA)
David Clarke (FHWA)
Ralph Rizzo (FHWA)
Rob Ayers (FHWA)
Kaha‘a Rezantes (FHWA)
Rachel McBrian (Volpe)
Harry Takiue (HDOT)
George Abcede (HDOT)
Julann Sonomura (HDOT)
Pua Aiu (HDOT)
Ken Tatsuguchi (HDOT)
Mandy Ranslow (ACHP)
Jaime Loichinger (ACHP)
Rick Gmirkin (Ala Kahakai)
Lauren Morawaski (OHA)
Fred Cachola (MHOKHK)
Paka Harp (MHOKHK)
Ashley Obrey (Native Hawaiian Legal Corporation)
Amanda Johnson-Campbell (NPS)
Aric Arakaki (NPS)
Jackson Bauer (Na Ala Hele)
Faith Rex (SMS)
Anna Pacheco (SMS)

Faith started the meeting at 9:04 am.

Faith reviewed everyone on the call.

Welcome & Introductions

George Abcede welcomed everyone to the meeting and thanked everyone for being here. He said he was new to the project, but he appreciates the passion and all the hard work that has gone into this project already.

Ralph Rizzo echoed George's sentiment and thanked everyone for their time, input and passion. He appreciates all the input and it has been heard. The results may not be everything they were looking for, but they are better than they were and we are in a better place.

Pule

Once Fred joined the meeting, he said a pule.

Review protocols for the meeting

Faith reviewed the list of everyone on the call again at the request of Fred.

Faith reviewed the protocols of the meeting.

Update on After Action Analysis

Rob Ayers presented a powerpoint for the After-Action Analysis update (attached).

Rob said the two main purposes of the after-action analysis are to identify how the project destroyed historic properties and to identify how to prevent this from happening again.

Rob reviewed the project team and project schedule. They are expecting to "finish" and present in January. He reviewed the interviews. Of the people asked to interview 14 interviews were completed, 2 provided written responses, 1 declined.

Rob said they are drafting the report and will present it to the group in January. They are looking for feedback on how the presentation dates work for everyone. After the presentation, they will be accepting responses and comments to the report for 30 days. These comments will be appended to the report before it is finalized.

Faith confirmed that Rob's presentation will be available to those who were only on the phone.

Lisa confirmed.

Update on NHO Consultation Protocol

Faith turned it over to Ken Tatsuguchi.

Ken reviewed the NHO consultation protocols plan. He first reviewed the scope and schedule. They are expecting to review drafts at meetings and based on the schedule the process should be completed by the end of 2022.

Fred was very glad that these protocols were being developed and he said this is a very important document that needs to be done correctly. Fred reminded the group that he was deeply involved in the ACHP and Department of Defense Native Hawaiian consultation protocol development. Fred wanted to know why there were only three meetings and why the first would not happen

until a year from now. He wanted a clarification about whether meeting and consultation were the same thing.

Ken clarified that meeting means consultation. He said three is their target number of meetings, but they are open to more if Native Hawaiians would like more.

Fred said yes, they needed more.

Ralph said that those three meetings are just formal meetings. Before and after the formal meeting there will be a lot of conversation and feedback from Native Hawaiians.

Fred said this isn't included in the schedule. The whole first year is all internal. Sending a document out for comment is not consultation.

Ralph and Lisa said there would be much more back and forth.

Fred said there needs to be a more formal consultation.

Paka said he felt it would be beneficial to consult with NHOs early on in the process. Paka suggested involving NHOs when developing the work plan in June.

Fred said there are already so many good protocols in other departments like the Department of Defense. He doesn't understand why FHWA is taking time and money to develop their own. It should not take two to three years,

Paka said there are existing models and maybe they could review those at the same time they begin consultation when developing the work plan.

Ken said this is all good input.

Review of the changes made to Amendment Two

Faith moved on to review of changes made.

Fred said there are two or so hours to discuss this and it focuses on the mitigation plans. Fred said this will take a lot of discussions. He said the mitigation proposal will need a second meeting.

Faith acknowledged Fred's comment.

Lisa began to review.

- Page One – changes made to the Whereas Clauses

Lisa said there were multiple comments objecting to the use of "inadvertent" for damaged sites, so this was removed in response.

Lisa pointed out that whereas clauses had multiple comments adding more of the history of the consultation. In response, they added more detail to Attachment 2 regarding the history of the consultation. There is a table now that gives a summary of what was discussed in the consultation meetings.

Lisa said line 30 was corrected to add the year on the UHH meeting that was last year and added a reference to the meeting last month.

HDOT received many comments asking to add a new Whereas clause for the after-action analysis. The Whereas clause references that Stipulation 26 required a submittal of an after-action analysis scope and schedule which was done on May 7, 2020 and then we will also attach the final report to this Amendment as Attachment 3. Fred discussed lines 28 to 30. He said that the meeting was initiated by UH and Makani Hou. He said the way it is stated seems like FHWA did this as a consultation and he felt it was dishonest. He said HDOT and FHWA did not encourage or organize that meeting.

Julann said they had reached out to UH and facilitated the connection.

Fred said he disagreed. The first meeting was back in 2015 after being contacted by Dr. Peter Mills in Waimea.

Paka said Peter reached out because the UHH had entered into an MOU that Makani Hou was unaware of. Peter wanted their input on their intentions. HDOT nor FHWA initiated that meeting.

Julann just wanted it acknowledged that she has some experience and emails showing the coordination by HDOT.

- Page Two – changes made to #1, Stipulation 5.B

Lisa moved on to 5.B.

Harry reviewed the changes in this section, included a timeline and additional details about the MOU.

Paka requested in line 45 that the 2019 date of the MOU and the date of the amendment be added. He wanted to be clear that we are discussing the 2019 MOU and not the expired 2015 MOU.

Fred asked why HDOT entered into an MOU with UH without first consulting with consulting parties. He wanted to know why. He said they initiated the proposal but were not included in the process. He said that is not consultation.

Faith acknowledged Fred's comments.

- Pages Three, Four & Five – changes made to #3, Stipulation 20, Changes made to #4

Lisa reviewed these minor changes and moved on to stipulation 27.

Stipulation 27 Preservation Plan

Pua began the review of this section.

Pua reviewed the section on buffer zones.

Rick stated that “recommended buffers by NAH are 30 feet on either side.”

Paka asked why the right of way was 2,500 ft.

Lisa said that outside of that HDOT doesn’t own the land.

Paka asked who owned the land.

Jackson confirmed it was DLNR land.

Paka asked if that difference in ownership excludes the option to restore that land.

Lisa said there are other funding opportunities for restoring beyond the 2500LF, but it would not be in this MOA. The 2500 LF of restoration proposed is commensurate with the trails damaged during construction.

In the Chat box Ralph Rizzo stated, “Na Ala Hele receives recreational trails funding from FHWA, so perhaps they would be willing to use that to preserve the trail beyond HDOT right of way.”

Rick stated that “Honokohau the trail is under preservation.”

Jackson Bauer stated “that is a possibility that Harry and I have been in discussions over. Unfortunately, this funding source is limited (and in decline), and adding trails only spreads the funding thinner. And the RTP money is only for recreational maintenance, not historic preservation.”

Jackson Bauer also stated that “Also, the restoration for this section is as a mitigative measure (punitive?) for the damages to the trail.”

Rick stated, “I agree with Jackson.”

Lisa stated, “Jackson-Yes, restoration of 2500 lf is mitigation for the 128' of trail damaged during construction.”

Ralph stated, “Good points, everyone is stretched for funds these days. But we don't consider mitigation to be punishment. You are correct that this mitigation is for the impacts of this project.”

Jackson stated “Sorry Ralph. I was just giving the intent.”

Ralph stated that “another possible funding source could be Transportation Alternative Funds.”

Jackson stated “Yes, Ralph, that is an underutilized fund in Hawaii. I'd be happy to work with HDOT and FHWA on that.”

Fred said this is the perfect opportunity to restore the whole trail. FHWA and HDOT are insisting on drawing an arbitrary line and creating limiting boundaries with no recognition of the cultural landscape of this area.

Jackson said the state owns that unencumbered land, in particular DLNR. However, Jackson said he agrees with Fred and that an MOA between HDOT and DLNR could easily be entered into to complete the comprehensive restoration.

Jackson said most of the trail is owned by the state, but a small section with a quarry was sold to private ownership, though still under preservation.

Fred said it should be wide enough so that it is accessible.

Pua reviewed the consultation process section.

Fred requested the removal of the word “attempt” in the section about contacting NHOs.

Pua thinks that the word can be removed.

Fred commented on the need for a consultant to do the work. Why can't they (HDOT) do the Preservation Plan themselves? Also, the timeline is too open.

HDOT said they would not have time.

Paka recommended Na Ala Hele or Ala Kahakai Trails Program should be considered to serve as consultants for this work.

Pua reviewed the next section.

Fred reiterated his concern over only three meetings or consultations.

Pua said meetings are consultations but consultations are not only meetings.

Fred said to clarify.

Pua said they can add “consultation” in front of all meeting references.

Fred said why not just call it consultation, this has formal requirements.

Pua said they will look at the issue of the wording.

Fred said also he likes the updates at 30/60/90% draft updates. He was very happy with this addition.

Paka liked the addition of consultation to the meeting and he also approved of the 30/60/90% addition to the review process.

Fred said there needs to be time for comments.

Pua said the next line addresses this. There are 30 days to submit comments.

The group agreed to remove the additional sentence on lines 135 and 136.

Paka suggested combining c and d.

Pua continued to review the section on a long-term preservation plan.

Fred commented on paragraph A. The language regarding the ahupua'a is limiting. The stories of trails are not limited by boundaries. Why not capture the entire Māmalahoa trail?

Paka recommended under 5.A, on line 148, that "or" should be replaced with "and". This would change the language to "A synthesis of available documentation on the construction, uses, maintenance, vegetation AND stories" rather than OR stories. He also asked why accessibility to the collection at the Hamilton Library said "if." Pua said due to COVID they are closed. Paka asked for that to be clarified in the text.

Fred suggested "Kekaha Region" instead of limiting with boundaries. Paka agreed.

Pua moved on to archeological documentation.

Paka said photographs should be included.

Jackson also suggested photogrammetry, drone footage, and GPS documentation. Rick stated, "I agree with Jackson". Paka agreed as well.

Pua reviewed the parking lot addition.

Fred was glad this was added but wanted it noted that ADA access should be addressed.

Jackson stated that "ADA stalls are required by law, even for a gravel lot."

Paka requested parking lot access be on Kealakehe Parkway and not the highway.

Pua reviewed signage.

Fred wanted to know why three signs. It's arbitrary.

Jackson said this is a little cart before the horse. Once there is more of an overall plan, they can better decide on the number of signs. He recommended deciding later.

Paka suggested the primary interpretive sign be located at the parking lot and include a shaded area. Fred agreed.

Pūa moved on.

Jackson was concerned with the ownership language in line 194. He asked for the removal of the first mention of Na Ala Hele. They do not own the land yet.

Fred suggested they included a cultural landscaping plan to restore native landscaping.

Paka requested paving rather than gravel. Jackson agreed and said this would also last longer.

- Page Five –#5, Stipulation 28 Deleted; New #5

The statement added about Signatories signing separately.

- Discussion of comments not included

Lisa said the comment table Harry distributed 12/3 addresses all comments. Some were not included in Amendment 2, but an explanation is included in the table. Lisa wanted to highlight that many of the comments received were for additional mitigation requests. They are only mitigating for the 128' of trail damaged during construction. The regulation states mitigation proposed has to be a result of the project and it is up to the Administration of FHWA to decide what is a reasonable public expenditure. Ralph is the Hawaii Division Administrator, so in the case of this project, he is the decision maker. Lisa asked if Ralph wanted to add anything.

Ralph thanked everyone for the feedback, and they welcome any discussion on comments.

Jackson brought signage back up. He requested Na Ala Hele be included in the sign consultation.

Lisa said thank you.

Paka was wondering if Na Ala Hele might be willing to be the consultant who creates the preservation plan. Jackson said no, but they would be part of the process. They don't have the capacity to do it themselves. Fred asked Jackson if he could assist FHWA and HDOT in the process to select a consultant. Jackson said yes.

Fred asked about section c, line 128, he wanted to know when the initial meeting may occur to discuss the preservation plan.

Pua said once they have a consultant and develop their timeline.

Fred said that is his concern. They won't hire a consultant for up to a year. This means this won't move forward for over a year.

Pua said six months is very fast and the best possibility.

Paka said he believes amendment two will take effect in April 2021 and so the process won't start until April 2022 so he would appreciate it if this could be expedited as much as possible.

Fred said if this can be an example of how this restoration should be done, they should take the opportunity to do it well and not limit it to the boundaries.

Jackson brought up the transfer of ownership again. He requested that metes and bounds be included since it is required for transfer. Not just the edge of the trail but included 30 ft adjacent to the trail.

Paka asked if HDOT would amend Amendment 2 based on comments.

Lisa said yes they would be considered and moved on to the next steps.

Next Steps

Lisa reviewed the next steps.

- January 2021 – FHWA distributes Annual Report
- January 2021 – After Action Analysis Team Presentation of Report

The group discussed the best days.

- January 2021 - Amendment 2 to be sent to Signatories

Lisa asked for any additional comments by January 8th.

Paka said yes, they appreciate the opportunity to present comments. He also asked if there will be a document for the After-Action Analysis shared as well. David said yes. Paka appreciated that.

Ralph wanted to clarify that comments will be reflected in a new draft, but that will be the version for signature. Lisa said yes.

Fred said Makani Hou is signing for all NHOs involved in the consultation process.

Paka said he doesn't think they have permission from La'i 'Opua to sign on their behalf.

Paka also asked if the draft is amended to include comments, will the amended version be circulated for comment.

Lisa said no, comment on the current version for inclusion.

Paka wanted to confirm they won't be able to review changes, they will just receive the final version.

Lisa said yes.

Fred said he had further comments on the preservation and restoration of the trail. ACHP commented that documentation shouldn't be limited. He was disappointed they won't be including additional documentation. They state that the trail "does not have religious significance" and this is not their decision to make, it is Native Hawaiians.

Paka mentioned Stipulation 5.B and the scholarship endowment program. Paka said due to the permanent destruction of properties he feels a permanent endowment program is the best option to make this right.

Lisa said their mitigation must be finite and an endowment is not possible. Fred said according to the stipulation, once the money is sent to the UH they are done. They do not need to maintain control of the funds. Lisa said they need to maintain oversight to ensure they meet federal requirements. Fred did not feel this was the best use of federal funds.

Paka said as long as the US government maintains its unlawful occupation of the Hawaiian Kingdom FHWA will be able to maintain oversight and he felt the only way to come close to making up for permanent destruction would be permanent endowment and he would like them to reconsider it.

Amanda Johnson-Campbell wanted to let the group know she will be sending comments they expect will be incorporated into the final draft.

Paka asked if the final amendment circulation could be delayed until February.

Lisa said yes, February is more likely.

Faith invited George to close the meeting.

Mahalo

George said thank you to everyone for coming together and having the hard conversations. He wished everyone happy holidays.

Pule

Fred closed the meeting with a pule.

Meeting Ended at 11:52 am.

QUEEN KA'AHUMANU MOA AMENDMENT TWO
Amendment 2, Attachment 1 - MOA Stipulation Status

Stipulation	Summary Description	Comment	Responsible Party	Date Due	Due Date Met?	Stipulation Complete?	Issues Encountered	Plan of Action to Complete or Evidence of Completion
1. ON SITE POINT OF CONTACT	The FHWA in coordination with the HDOT shall designate an on-site point of contact (POC) and provide electronic copies of documents upon request by any consulting party to this MOA. Consulting parties to this MOA shall identify a POC for their respective organizations and transmit contact information to the FHWA and HDOT who shall maintain a current POC list.		HDOT	N/A	N/A	N/A		On site point of contact will continue to be updated annually during annual report or as needed
2. AREA OF POTENTIAL EFFECT (APE)	The APE includes the right-of-way (ROW) of the Queen Ka'ahumanu Highway, the Honokohau Settlement National Historic Landmark, the Kaloko-Honokohau National Historical Park, and trails that are immediately adjacent to and traverse the Project area that have been identified as significant to the Ala Kahakai National Historic Trail corridor, most notably the Mamalahoa Trail.	During investigation of site breaches which occurred in Summer 2016, it was determined the APE did not include work on side roads, outside the 300-ft. HDOT ROW.	HDOT	N/A	N/A	Complete	Because construction areas outside the 300' wide APE were not assessed for 1) historic sites and 2) effects to those sites, APE incorporated into MOA via Amendment 1 dated March 4, 2020.	SHPD Concurred with expanded APE January 6, 2017 Log No. 2016.02942 Doc. No. 1701SL01. APE incorporated into MOA via Amendment 1 dated March 4, 2020.
3. PROFESSIONAL STANDARDS	The HDOT shall ensure that all work carried out and documents prepared under this MOA are consistent with the recommendations of the August 2012 AIS and professional standards and guidelines. Work shall be carried out by person or persons meeting the professionals qualification for archeology. The HDOT shall provide, upon request, the documents identified in this MOA.	Cultural Surveys Hawaii is performing all work pertaining to the identification and treatment of archeological resources. The President, Principal of Firm, Dr. Hallett Hammatt, meets the professional qualification.	HDOT	N/A	N/A	Complete		Cultural Surveys Hawaii performed all work pertaining to the identification and treatment of archeological resources. The President, Principal of Firm, Dr. Hallett Hammatt, meets the professional qualification requirements. At the time of the work, they were listed by SHPD as a permitted firm.
4. ARCHAEOLOGICAL PRESERVATION AND MITIGATION PLAN (APMP, APRIL 2014), DATA RECOVERY AND PRESERVATION PLAN (DRPP, OCTOBER 2012), ARCHAEOLOGICAL MONITORING PLAN (AMP, OCTOBER 2012) and BURIAL TREATMENT PLAN (BTP, OCTOBER 2012).	ARCHAEOLOGICAL PRESERVATION AND MITIGATION PLAN (APMP, APRIL 2014), DATA RECOVERY AND PRESERVATION PLAN (DRPP, OCTOBER 2012), ARCHAEOLOGICAL MONITORING PLAN (AMP, OCTOBER 2012) and BURIAL TREATMENT PLAN (BTP, OCTOBER 2012). a. FHWA will ensure that HDOT complies with the implementation of the APMP, AMP, DRPP, and BTP and its compliance with the conditions of approval stipulated by SHPD. b. The HDOT shall provide the parties to this MOA a copy of the findings of the APMP, AMP and DRPP activities. c. Further, construction, including ground-disturbing activities will not commence until the data recovery fieldwork has been completed and a data recovery end of fieldwork report has been drafted and approved by SHPD. d. The end of fieldwork report shall be submitted to all parties of this MOA and NHOs who participated in the consultation process. e. The Data Recovery Final Report shall be submitted to SHPD for their approval.	(1) Copies of the subject plans are available on RMTc share site https://share.rmtowill.com/index.php/s/bTqGBKwEJB72eC (2) Due to the narrowing of the Highway median, the retaining wall shown in the BTP is no longer required. An Amendment dated January 2019 was submitted and approved by SHPD	HDOT	Prior to construction	Yes	Complete		Copies of subject plans are available on Socrata project site and on the HDOT website under HDOT-Highways, Major projects. Link is https://hidot.hawaii.gov/highways/queen-kaahumanu-widening-mitigation/
5a. PROJECT REDESIGN	Redesign south portion of project to minimize impacts to historic properties.	Project Design - Construction plans for the area between Kealahake Parkway and Hinalani Street are complete and construction is ongoing.	HDOT	03/17/20	YES	Complete	The 4(f) requirement for a retaining wall to allow for a steeper slope to the highway where the Māmalahoa trail would be impacted by the widening, near the entrance to the National Park, was not included in construction plans. The archaeology coordinates and the construction coordinates were not aligned prior to construction. These mistakes led to the damage to the 2 trails in 4 locations.	Construction is now complete. Signed final plans dated 8/2016 available at HDOT district office
5b. NATIVE HAWAIIAN CULTURAL OUTREACH AND EDUCATION	a. The HDOT and the University of Hawai'i at Hilo (UHH) have entered into a Memorandum of Understanding (MOU) to provide cultural programs and education to support Native Hawaiian studies. b. The HDOT shall ensure that the MOU between HDOT and UHH to provide cultural programs is fully implemented over the five year duration of the agreement. c. Annual reports documenting the activities of the past calendar year will be made available to all consulting parties.		HDOT/UH Hilo	03/17/20	NO	NOT COMPLETE	This stipulation is late getting started due to funding, staffing, and other issues between HDOT and UH Hilo. A new MOU was executed on October 1, 2019. At the request of Makani Hou, it included the Kohala Center, to ensure some connection to the Kekaha side of the island. The new MOU also included additional funding to cover overhead and the addition of the Kohala Center. Makani Hou's requested and consulted with the UHH on December 3, 2019.	Stipulation 5b is addressed as part of Amendment 2, which will extend the MOA to 2026. Based on the 11/06/20 consultation meeting, the UHH will be allowed more flexibility to complete the MOU. Additional program details are needed to determine a fair time extension for the MOU. Therefore, the UHH-HDOT MOU Amendment is now planned for March 2021. The additional time to prepare the MOU Amendment provides an opportunity to refine elements of the MOU to accommodate historic and cultural resource availability.
6. CULTURAL MONITORS	Provide cultural monitors to (a) serve as community liaison, (b) provide cultural education for construction workers, (c) prevent and minimize impacts to historic and cultural resources, (d) monitor construction, and e) prepare daily reports.	Cultural monitoring ongoing with construction	HDOT	03/17/20	YES	Complete		Construction is complete, no need for further monitoring.
7. STREET LIGHTING	Street lighting shall only be provided at signalized intersections. Luminaire will not direct light skyward	Project plans have been completed by the project contractor and reviewed and approved by HDOT. Contractor will install per plan.	HDOT	03/17/20	YES	Complete	In letter dated June 16, 2015 NPS approved luminaire substitution of 92WLED Streetlight (2 Light Engine) and 46W LED Street Light (1 Light Engine) due to CWES KS04-100 being obsolete.	Photo of completed street lighting attached to 2018 Annual Report
8. NOISE STUDY	Complete noise impact study and make available to consulting parties of MOA	Noise Study Final Report completed on February 2015 and is within the 4(f) document.	HDOT	03/17/20	YES	Complete		Noise study on file with HDOT - Hawai'i District Office and posted on the RMT SharePoint and HDOT website.

QUEEN KA'AHUMANU MOA AMENDMENT TWO
Amendment 2, Attachment 1 - MOA Stipulation Status

Stipulation	Summary Description	Comment	Responsible Party	Date Due	Due Date Met?	Stipulation Complete?	Issues Encountered	Plan of Action to Complete or Evidence of Completion
9. HIGHWAY DRAINAGE	Install drainage control (drywells) from 1,000 feet north of Hinalani Street to immediate south of Kealahake Parkway Intersection and report of maintenance to NPS/MOA parties and consulting NHO's	Incorporation of filtering devices into the construction plans has been done, the drywells shall be constructed per plan with filtering devices. Reporting requirements will become effective after installation as required.	HDOT	Report Annually Beginning 10/19	YES for Installation NO for annual reporting	Complete Ongoing Annual Maintenance and Reporting	2019 Report delayed due to contractor issues. Drainage filter material delivery was delayed due to COVID-19.	The Final Drainage Report was submitted to the Kaloko-Honokohau National Park on 10/20/20. Annual inspections and filter replacement are scheduled to take place each November with the annual report submitted in December.
10a. PEDESTRIAN CROSSINGS - AT GRADE PEDESTRIAN CROSSINGS	The HDOT shall provide at-grade pedestrian crossing at the following three locations: at the intersections of Hinalani Street, Lanihau Street/Park Entrance, and Kealahake Parkway. These crossings shall incorporate pedestrian refuges (where feasible) in the highway median where there is adequate space available for the pedestrian refuge, and will accommodate bicycle users.	Pedestrian crossings have been designed as required and will be open at the completion of the project, or sooner if feasible from a safety standpoint.	HDOT	03/17/20	YES	Complete		Photo of completed at-grade pedestrian crossings attached to 2018 Annual Report
10b. PEDESTRIAN CROSSINGS. UNDERPASS FEASIBILITY STUDY	The HDOT shall conduct a feasibility study with the objective of facilitating safe pedestrian access across the Queen Ka'ahumanu Highway at the "Trail to Honokōhau." The study will examine at-grade crossing locations, the installation of a pedestrian tunnel crossing, and the modification of existing culverts for pedestrian-bicycle use. The study shall seek examples and policies regarding use of existing pedestrian tunnels and modified culverts in Hawai'i and other States. Subsurface crossing(s) shall include provisions for a third party organization to take responsibility for maintenance, security and liability for the crossing(s) as has been the policy of HDOT for more than a decade. The HDOT shall identify and select a qualified independent third party to conduct the study. As part of the study, HDOT shall consult with NPS to identify community organizations who may be invited to participate in the feasibility study. Organizations that may be invited to participate include: signatories to this MOA, NHOs, Peoples Advocacy Trails Hawai'i (PATH), County of Hawai'i, local primary and secondary school officials, universities, community groups, the Royal Order of Kamehameha, and the Association of Hawaiian Civic Clubs. As part of the feasibility study the HDOT shall convene a community meeting that has as its objective the development of design guidelines for future Queen Ka'ahumanu Highway expansion projects that includes provisions for trail connectivity and pedestrian crossings under the Queen Ka'ahumanu Highway as well as paralleling the highway. The HDOT shall transmit the findings of the feasibility study (inclusive of any documents or written testimony from the community meeting above) to parties participating in the feasibility study prior to the expiration of this MOA.		HDOT	03/17/20	YES	Complete		Final feasibility study including design guidelines (in appendix) distributed at 6/26/19 CP meeting and posted on the RMT SharePoint site.
11. INTERPRETIVE SIGNS	The HDOT shall research, design, and produce mutually agreed upon interpretive sign(s) in consultation with NPS and NHOs relating to the history of the trails identified in the Project ROW near the Kaloko-Honokōhau National Historical Park and how the trails relate to the surrounding community. The sign(s) shall be (1) designed to meet NPS sign standards, (2) produced by HDOT, and (3) installed by the NPS within the boundaries of the Kaloko-Honokōhau National Historical Park		HDOT	03/17/20	NO	NOT COMPLETE	This Stipulation was late getting started. The NPS proposed to FHWA and HDOT that the NPS Harper's Ferry Group design, manufacture and install sign(s) in September, 2017. MOA between FHWA, NPS and HDOT for NPS to design, manufacture and install interpretive signs was delayed in the review process and finally executed 5/2/19. In May 2020, the Kaloko-Honokōhau Acting Superintendent requested that consultation be postponed until the hiring of a Park Superintendent since the interpretive signs will become permanent.	5/2/19 MOA executed for NPS to design, manufacture and install interpretive signs in consultation with NHOs. The deadline in the interpretive sign MOA between FHWA, NPS and HDOT is 5/2/21. A consultation meeting was held on 09/17/20 and the possibility of using silhouettes as "interpretive signs" is being explored.
12. AHUPUA'A SIGNS	The HDOT shall install ahupua'a markers within the project limits following the guidelines of the HDOT's Ahupua'a Marker Program. The markers (ahu or sign on posts) shall be designed and installed in consultation with community groups and NHOs as prescribed by the Ahupua'a Marker Program. A notice of the proposed installation shall be published in the West Hawai'i Today newspaper. The markers shall be installed as part of the highway widening project.	The current draft of the HDOT Ahupua'a Marker Program will serve as the basis for the planned development of the ahupua'a markers.	HDOT	03/17/20	YES	Complete		Photo of completed Ahupua'a signs attached to 2018 Annual Report. At the request of Paka Harp, signs for Honokohau 1 and 2 were changed to Honokohau Nui and Iki.
13. LANDSCAPING PLANS	Coordinate landscaping plans with the NPS in areas within the ROW fronting the National Historic Park. Consult with NHO's on plant species.	Landscaping plans submitted to and approved by NPS. Plans submitted to NHOs and	HDOT	03/17/20	YES	Complete		Photo of completed landscaping attached to 2018 Annual Report
14. RELATIONSHIP BUILDING WORKSHOP	Statewide one day relationship building workshop within 24 months of the execution of the MOA		HDOT	3/17/17	NO	Complete	This Stipulation was delayed. HDOT acknowledges that the handoff between the HDOT design branch who drafts the MOA to the HDOT District that is responsible for completing the MOA needs improvement. The stipulation was further delayed due to the damaged sites.	HDOT and FHWA are currently working on including a mitigation tracking system that includes due dates and responsible party. HDOT opted to host 2 more relationship building meetings, one each on Maui and Oahu. Summary report of relationship building workshop was distributed 11/5/2018 and is posted on the HDOT Socrata site and HDOT Highways, Major Projects website. https://hidot.hawaii.gov/highways/queen-kaahumanu-widening-mitigation/

QUEEN KA'AHUMANU MOA AMENDMENT TWO
Amendment 2, Attachment 1 - MOA Stipulation Status

Stipulation	Summary Description	Comment	Responsible Party	Date Due	Due Date Met?	Stipulation Complete?	Issues Encountered	Plan of Action to Complete or Evidence of Completion
15. TERRAIN MODEL	The HDOT shall commission the construction of a terrain model depicting the lands of Kekaha (between Kailua and Anaehoomalu) in consultation with Makani Hou o Kaloko-Honokohau. The model shall incorporate topographic relief, traditional place names, historic trails, settlement locations, interpretive signs, and other important landmarks, to be determined.		HDOT	03/17/20	YES	Complete	The Kaloko-Honokohau National Historical Park under the auspices of the Hawai'i Pacific Parks Association is unable to house the physical terrain model.	Final physical terrain model was available for viewing at 6/26/19 CP meeting and digital terrain model posted on the HDOT Socrata site. KMZ file was available for download on RMT Sharepoint site since 06/22/19. Ongoing consultation on a permanent location for the physical terrain model. Kaloko-Honokohau National Park is reconsidering housing the physical terrain model.
16. ARCHEOLOGICAL MATERIALS AND RECORDS	Discoveries as a result of the project housed and curated by HDOT	Archaeological materials under curation by HDOT and are available for viewing by the public upon request. HDOT to continue monitoring and	HDOT	03/17/20	YES	Complete		Archeological materials will be curated by HDOT until another curating/display opportunity becomes available.
17. POST-REVIEW DISCOVERIES	Actions required for previously unknown potential historic properties or unanticipated effects on identified historic properties			Notification of CPs within 72 Hours of discovery	NO	NOT COMPLETE	<ul style="list-style-type: none"> NHOs were not notified in the timeframe required by Stipulation 17. On July 28, 2016, HDOT was notified of possible site encroachments during construction at the mauka termini of the mauka-makai trail of Site 10714 Features A and C. HDOT issue a stop work order at this site and requested the Contractor and the Contractor's archaeologist to assess the damaged area. SHPO was notified on 8/2/16 On 8/24 and 25, 2016 HDOT and SHPD did a site visit and confirmed the breaches. NHOs notified in email 9/30/16 and in meeting and site visit on 12/2/16 A site visit was conducted on 5/5/17 with NHOs to expanded APE. NHOs were asked to notify HDOT of any additional sites in SAIS for the expanded APE by 5/19/17. No comments received. Mitigation meeting held with NHOs and other Consulting Parties May 23, 2017 at NELHA. 8/23/17 FHWA issued Notification of Adverse Effect for damaged sites. 	<ul style="list-style-type: none"> Action Plan during Construction drafted and used to address protection of known historic properties was developed to: 1) Fence all known sites at their construction buffers. Additionally, all sites were marked with a wooden lath which was marked with a pink flag and the site number. All laths were located in the southeast corner of the site fencing. 2) Clarify the role of the archaeological and cultural monitors and their ability to stop work. FHWA began and will continue as necessary quarterly reporting to help ensure more timely reporting of issues. The APE was revised and a Supplemental Archaeological Inventory was done. This Amendment 2 contains Stipulations to mitigate damaged sites. The FHWA is currently conducting an After-Action Analysis to provide recommendations on ways to improve compliance with Federal and State environmental and historic preservation laws Consultation for the mitigation for damages is ongoing and will be included in Amendment 2.
18. DISPUTE RESOLUTION	DISPUTE RESOLUTION. Should any signatory, invited signatory, or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will: a. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The FHWA will then proceed according to its final decision. b. Make a final decision on the dispute and proceed accordingly if the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period. Prior to reaching such a final decision, the FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response. c. Be responsible to carry out all other actions, subject to the terms of this MOA that are not the subject of the dispute.		FHWA	N/A	N/A	NOT COMPLETE	<ul style="list-style-type: none"> 8/13/19 Fred Cachola of Makani Hou o Kaloko-Honokohau filed objection via email to FHWA. Stipulations 4, 5b, 8, 10b, 11, 12, 14, 15, 17, 18, and 21 are subject to the objection. 10/25/19 In person meeting with representatives from Makani Hou, FHWA, SHPD and HDOT was held in Waimea to discuss objection and possible resolution. FHWA responded to the complaint in writing 1/21/19. Meeting held February 29, 2020 for Makani Hou responses. Meeting held May 29, 2020 to discuss stipulation status and close-out memos. 7/8/2020 FHWA determined objection could not be resolved and forwarded to ACHP for advice. 8/10/2020 ACHP responded with advice on the objection. 	<p>The ACHP responded to Makani Hou's 07/09/20 objection on 08/10/20 with its recommendations.</p> <p>FHWA replied to the ACHP advice on 09/02/20 with its final decision and rationale.</p> <p>A follow up meeting was held on 09/24/20 to discuss the ACHP recommendation and FHWA's response to the ACHP advice. The FHWA decision is final and concludes the Dispute Resolution process.</p>
19. MONITORING AND REPORTING	Provide summary report at the end of each calendar year		FHWA	Annually	NO	NOT COMPLETE	Due to poor handoff between HDOT design and construction and at FHWA, the MOA was late to get started and annual reporting was not completed. First annual report was sent out February 24, 2017 for all work to date. Document sent April 28, 2017 broke down report into 2015 Annual Report (2nd column), revised 2016 report (3rd column) and MOA update (4th column).	Reports since 2017 have been timely filed. In addition to annual reports, quarterly reporting began in 2018 and will continue in 2020.

QUEEN KA'AHUMANU MOA AMENDMENT TWO
Amendment 2, Attachment 1 - MOA Stipulation Status

Stipulation	Summary Description	Comment	Responsible Party	Date Due	Due Date Met?	Stipulation Complete?	Issues Encountered	Plan of Action to Complete or Evidence of Completion
20. DURATION				03/17/20	NO	NOT COMPLETE	Seven stipulations as outlined above were not completed on time, so the MOA requires extension. Amendment 1 extended the MOA to March 17, 2021.	Amendment 2 will extend MOA to March 17, 2026
25. CONSULTATION SCHEDULE	The HDOT and FHWA shall develop a draft consultation schedule for developing Amendment Two including timelines, tasks, and areas of responsibilities in order to complete consultation and execute Amendment Two no later than March 17, 2021. HDOT /FHWA shall distribute the draft consultation schedule to Signatories and Consulting Parties (hereafter "Parties") via email no later than April 2, 2020. Any comments received by FHWA/HDOT from Parties within fourteen (14) days of date sent by email shall be considered by FHWA/HDOT in developing the final consultation schedule. The consultation schedule will be finalized no later than April 30, 2020.		HDOT/FHWA	Draft = 4/2/20 Final 4/30/20	YES	YES		
26. AFTER-ACTION ANALYSIS SCHEDULE	HDOT and FHWA will provide a draft schedule and scope to develop an "After-Action Analysis" report on how the project failed to protect historic properties and proposed action items to address these issues to Parties via email by April 2, 2020. Any comments on the draft schedule and scope received from Parties within fourteen (14) days of date sent by email shall be considered by FHWA/HDOT in developing the final schedule. The after-action analysis schedule and scope will be finalized no later than May 7, 2020.		HDOT/FHWA	Draft = 4/2/20 Final = 5/7/20	YES	YES		
21. AMENDMENTS	Any signatory, invited signatory, or concurring party to this MOA may request that it be amended.	Amendment required to expand APE to include side roads, include mitigation for damaged sites, acknowledge schedule relationship building workshop timeline not met, allow for the NPS to design, manufacture and install interpretive signs, and extend duration of MOA.	HDOT/FHWA	N/A	N/A	NOT COMPLETE	Amendment 1 to extend the duration of the MOA, was executed on March 4, 2020.	Discussions on Amendment 2 are on-going. Amendment 2 addresses unfinished stipulations, such as the UHH MOA, and post review discoveries.

Queen Ka'ahumanu MOA AMENDMENT 2 ATTACHMENT 2			
Consultation Summary in response to Stipulation 17, Post Review Discoveries			
106 Consultation	Date	Consulted Parties	Documentation
APE AND SAIS			
Meeting to notify CPs of the site damage, buffer breaches and deficiencies in APE. Meeting included a site visit to damaged sites and buffer breaches	12/6/2016	<u>Attendees</u> Cynthia Nazara, Kona HCC Luana Keanaaina, Cultural Descendant Kaliko Chun, Na Hoa Pili Tyler Paikuli-Campbell, Kaloko-Honokohau NPS (KAHO) Tammy Duchesne, KAHO, NPS Bo Kahui, Lai Opua AHH Aric Arakaki, Ala Kahakai National Historic Trail (AKNHT), NPS Susan Lebo, SHPD Rick Gmirkin, AKNHT Fred Cachola, Makani Hou Isaac "Paka" Harp, Makani Hou Lisa Powell and Kaha'a Rezantes FHWA Kaleo Salvador and Sterling Chow, HDOT Julann Sonomura, HDOT John Makoff, Ed Brown GBI Billy Folk, Cory Simon, Hal Hammett, CSH Roy Tsusui, Jason Tateishi RMTC Robyn Ito and Austin Drake, SSFM	Meeting notes including sign-in sheet distributed via email and posted on project share site
Link to SAIS and expanded APE provided via email	4/8/2017	<u>Email Distribution List:</u> Bo Kahui Cynthia Nazara, Kona Hawaiian Civic Club Fred Cachola, Makani Hou Jeff Zimpfer, KAHO Keola Lindsey, OHA Kiersten Faulkner, HHF Lauren Morowski, OHA Susan Lebo, SHPD Tyler Paikuli-Campbell, KAHO Tammy Duchesne, NPS Paka Harp, MHOKH Kalani Nakoa, Nakoa Foundation Kuauhaunui@gmail.com Konakuauhau@gmail.com William Thompson, NPS Shane Nelson, OHA	email from Jason Tateishi

106 Consultation	Date	Consulted Parties	Documentation
Invite to CP's on field visit to APE and request for information on sites or cultural knowledge	4/27/2017	Email Distribution List: Cynthia Nazara, Kona Hawaiian Civic Club Fred Cachola Jeff Zimpfer, KAHO Keola Lindsey, OHA Kiersten Faulkner, HHF Lauren Morowski, OHA Susan Lebo, SHPD Tyler Paikuli-Campbell, KAHO	email from Sterling Chow
CP Expanded APE site Visit	5/5/2017	Attendees Cynthia Nazara, Kona HCC Paka Harp through proxy, Cynthia Nazara Jacob Keanaaina, Cultural Monitor Amy Rubingh (SHPD, Hawaii Office) Deona Naboa, HDOT Jason Tateishi RMT, Nate Garcia, Jacob	CP sign in sheet with listing of any known historic properties within the expanded APE (none)
Damage to Sites (92 LF of Mamalahoa Trail and 36 LF of Trail to Sea) and Buffer Breaches			
Email notification of inadvertent damage to sites and buffer breaches	9/30/2016	Email distribution list: MOA Points of Contact	Email from Sterling Chow
Meeting to notify CPs of the site damage, buffer breaches and deficiencies in APE. Meeting included a site visit to damaged sites and buffer breaches	12/6/2016	Meeting Attendees Listed Above under APE/SAIS consultation	See above
Consultation Meeting on MOA Stipulations and consultation on damaged sites	4/7/2017	Attendees Fred Cachola, Makani Hou Isaac "Paka" Harp, Makani Hou Cynthia Nazara, Kona HCC Rick Grmirkin, AKNHT Jeff Zimpfer, KAHO, NPS Shane Nelson, OHA Lauren Morowski, OHA Scott Urada, Sterling Chow HDOT Natasha Soriano, HDOT Richelle Takara, Meesa Otani, FHWA Lisa Powell, FHWA Herb Lee, Dawn Chang, Facilitators Jason Tateishi, Laura Mau, Michelle Wong RMTC	Meeting notes including sign-in sheet distributed via email and posted on project share site Materials include: 2016 Annual Report MOA contact list Construction Status Maps of disturbed sites and buffers Final Action Plan

106 Consultation	Date	Consulted Parties	Documentation
Consultation Meeting for damaged sites and CP proposals for mitigation. Makani Hou presented mitigation proposal which includes doing the following for Mamalahoa Trail, Trail to Sea, and Trail to Honokohau 1) Reconcile historic documentation and ownership 2) Commission cultural oral history survey 3) Restore and maintain the three trails 4) Plant Lolou palms to identify trails 5) Construct scenic overlook 6) Construct underpass Proposal #2 includes identify property owners, construct underpass, commission research study, artist, consult with Kapuna where the trails are located.	5/23/2017	<u>Attendees</u> Fred Cachola, Makani Hou, Royal Order of Kamehameha Isaac "Paka" Harp, Makani Hou Cynthia Nazara, Kona HCC Keola Lindsey, OHA Lauren Morowski, OHA Rick Gmirkin, AKNHT, NPS Susan Lebo, Amy Rubingh SHPD Kiersten Faulkner, HHF Bo Kahui, Laiopua HHA Richelle Takara, Lisa Powell FHWA Scot Urada, Sterling Chow, HDOT Deona Naboa, HDOT Jason Tateishi, Laura Mau, Michelle Wong RMTC Dawn Chang, Herb Lee Facilitators	Meeting notes including sign-in sheet distributed via email and posted on project share site. Meeting notes and materials are also loaded on HDOT website. Materials include: Agenda, Finalized notes, Makani Hou proposal
Consultation Meeting to present HDOT Mitigation Option of restoring trails and trail education through Palamanui program, also discussed draft Amendment 1 and MOA Stipulations 4, 5b, 11, 17, 19, 21, 1, 2, 3, 6, 9, 10b, 12, 13, 14, 15, 16	6/26/2019	<u>Attendees</u> Mandy Ranslow (ACHP, by phone) Lauren Morowski, OHA Susand Lebo, SHPD Tamara Luthy, SHPD Fred Cachola, Makani Hou Isaac "Paka" Harp, Makani Hou Bo Kahui, Lai Opua HHA Aric Arakaki, AKNHT Mandy Johnson-Campbell, AKNHT Kiersten Faulker, HHF Jeff Zimpfer, KAHO, NPS Carrie Johnson, OHA Bill Thompson, KAHO, NPS Lisa Powell, Meesa Otani FHWA Kaha'a Rezantes FHWA Don Smith, Pua Aiu HDOT Herb Lee, Facilitator Students and Faculty of Palamanui	Meeting notes including sign-in sheet distributed via email and posted on project share site Also posted on HDOT Website.

106 Consultation	Date	Consulted Parties	Documentation
<p>Consultation Meeting on MOA Stipulations, Amendments (there will be 2) and CP coalition proposal for mitigation. HDOT presented timeline and maps of damaged trails. CPs presented coalition proposal for Mamalahoa trail, Trail to Honokohau, and Road to the Sea trail Including 1) Reconcile historic trail documentation 2) Repair and stabilize trail 3) Oral History 4) Identify propoerty owners and facilitate meeting 4) Creation of comprehensive community trail plan 6) Mark trails with plants and art 7) Construct overlook 8) Map all ahupua'a boundaries and trails bisected 9) Install Underpass 10) HDOT hire expert historic preservation coordinator. FHWA questioned if the proposal was proportional to the damage to the 2 trails. CPs were asked if proposal parts could be prioritized. Makani Hou stated proposal was package and all parts are very important. HDOT stated they cannot commit to the entire proposal. FHWA stated that some components of the proposal could be funded but not all.</p>	11/23/2019	<p>Attendees</p> <p>Mandy Johnson-Campbell, AKNHT Aric Arakaki, AKNHT Fred Cachola, Makani Hou Paka Harp, Makani Hou Kekoa Nazara, Kona HCC Lauren Morawki, OHA Rick Gmirkin, AKNHT Susan Lebo, SHPD Jeff Zimpfer, KAHO, NPS Mandy Ranslow, ACHP (via phone) David Clark, FHWA (via phone)</p> <p>Richelle Takara and Lisa Powell, FHWA Marshall Ando and Pua Aiu, HDOT Julann Sonumura and Harry Takiue, HDOT Faith Rex, Facilitator</p>	<p>Meeting notes including sign-in sheet distributed via email and posted on project share site</p> <p>Also posted on HDOT website. <u>Materials include:</u> Draft Amendment Timeline</p> <p>Ala Kahakai materials CP Mitigation Proposal.</p>

106 Consultation	Date	Consulted Parties	Documentation
<p>Consultation Meeting to obtain feedback on Amendment 1 clause by clause. HDOT presented mitigation proposal of restoring 1000' of Mamalahoa Trail in HDOT ROW. FHWA stated the coalition proposal was a great vision, but beyond commensurate for the adverse effect for the trails damaged during construction. FHWA presented the Transportation Alternatives Program (TAP) as a possible way to fund the larger CP coalition proposal.</p>	2/8/2020	<p>Attendees</p> <p>Tanya Lizama, AKNHT</p> <p>Amanda (Mandy) Johnson-Campbell, AKNHT</p> <p>Lauren Morawski, OHA</p> <p>Rick Gmirkin, AKNHT</p> <p>Susan Lebo, SHPD</p> <p>Isaac (Paka) Harp, Makani Hou</p> <p>Fred Cachola, Makani Hou</p> <p>Aric Arakaki, AKNHT</p> <p>Kekoa Nazara, Kona HCC</p> <p>Kiersten Faulkner, HHF</p> <p>Jeff Zimpfer, KAHO</p> <p>Mandy Ranslow, ACHP (via phone)</p> <p>David Clark, FHWA (via phone)</p> <p>Richelle Takara and Lisa Powell, FHWA</p> <p>Amy Ford-Wagner, FHWA</p> <p>Marshall Ando and Pua Aiu, HDOT</p> <p>Julann Sonumura and Harry Takiue, HDOT</p> <p>Faith Rex, Facilitator</p>	<p>Meeting notes including sign-in</p> <p>Posted on HDOT website.</p> <p><u>Materials include:</u></p> <p>Meeting Notes</p> <p>Agenda</p> <p>Draft Amendment 1</p> <p>APE Maps</p> <p>Draft Amendment 2</p> <p>Attach 1: Stip Status</p> <p>Attach 2: List of trails and amount graded</p> <p>Relationship Building Workshop report</p> <p>Annual report</p> <p>Aug 13, 2019 MH</p> <p>Objection & FHWA/</p> <p>DOT Response</p> <p>TAP Funding</p> <p>Presentation</p>
<p>CP meeting on After Action Analysis, Proposed mitigation of breached sites. HDOT mitigation proposal includes restoring 1000 feet of Mamalahoa Trail.</p>	4/4/2020	<p>Attendees</p> <p>ACHP: Mandy Ranslow, ACHP</p> <p>FHWA: David Clark, Lisa Powell, Richelle Takara,</p> <p>HDOT: Marshall Ando, Harry Takiue, Pua Aiu, Julann Sonomura</p> <p>HHF: Kiersten Faulkner</p> <p>Kona HCC: Kekoa Nazara, Kona</p> <p>Makani Hou: Fred Cachola</p> <p>AKNHT: Aric Arakaki, Rick Gmirkin, Tanya Lizama</p> <p>OHA: Lauren Morawski</p> <p>SHPD: Susan Lebo</p> <p>SMS (Facilitator and notetaker): Faith Rex, Anna Pacheco</p>	<p>Meeting agenda, Meeting notes,</p> <p><u>Materials include:</u></p> <p>Draft AAA-attached to agenda</p> <p>Table of Breaches</p> <p>106 Workshops</p> <p>Summary Report</p> <p>Stipulation Status</p> <p>Table</p> <p>Material available on HDOT website.</p>

106 Consultation	Date	Consulted Parties	Documentation
CP meeting to discuss Mitigation for breached sites. Via Web chat room and conference call. HDOT mitigation proposal includes restoring 1000 LF of Mamalahoa Trail. Makani Hou and Na Ala Hele did not think the mitigation was commensurate to the adverse effect and thought the entire government property of the Mamalahoa trail should be restored and maintained. Makani Hou wanted entire coalition proposal funded. Makani Hou could not prioritize other parts of proposal over trail restoration.	4/16/2020	Attendees: FHWA: Richelle Takara, Meesa Otani, Kaha'a Rezendes, Lisa Powell HDOT: Marshall Ando, Harry Takiue, Julann Sonomura, Pua Aiu ACHP: Mandy Ranslow Na Ala Hele: Jackson Bauer AKNHT: Aric Arakaki, Tanya Lizama, Mandy Johnson-Campbell, Rick Gmirkin OHA: Lauren Morowski HHF: Kiersten Faulkner MHOKHI: Fred Cachola, Paka Harp Kona HCC: Kekoa Nazara SMS: Faith Rex, Anna Pacheco	Agenda, Mitigation Proposal for Breached Sites, Draft Amendment 2, Table of breaches. Materials are posted to DOT website.
Amendment 1			
Consultation Meeting to present HDOT Mitigation Option, Amendment 1 and MOA Stipulation Status	6/26/2019	Listed above under Damage to Sites and Buffer Breaches	See Above
Consultation Meeting on MOA Stipulations, Amendments and CP proposal for mitigation	11/23/2019	Listed above under Damage to Sites and Buffer Breaches	See Above
Revised Amendment 1 sent via email to MOA POC List	1/15/2020	Email Distribution List: MOA Contact List	Email from Harry Takiue
Consultation Meeting regarding Amendment 1	2/8/2020	Listed above under Damage to Sites and Buffer Breaches	See Above

106 Consultation	Date	Consulted Parties	Documentation
CP meeting on After Action Analysis, Proposed mitigation of breached sites	4/4/2020	Attendees ACHP: Mandy Ranslow, ACHP FHWA: David Clark, Lisa Powell, Richelle Takara, HDOT: Marshall Ando, Harry Takiue, Pua Aiu, Julann Sonomura HHF: Kiersten Faulkner Kona HCC: Kekoa Nazara, Kona Makani Hou: Fred Cachola AKNHT: Aric Arakaki, Rick Grmirkin, Tanya Lizama OHA: Lauren Morawki SHPD: Susan Lebo SMS (Facilitator and notetaker): Faith Rex, Anna Pacheco	Meeting agenda, Meeting notes, <u>Materials include:</u> Draft AAA-attached to agenda Table of Breaches 106 Workshops Summary Report Stipulation Status Table Material available on HDOT website.
Makani Hou Objection per Stipulation 18			
Makani Hou submits objection to MOA implementation per Stipulation 18 regarding general consultation conduct, Stipulation 4, 5,8, 10b, 11, 12, 14, 15, 17, and 21	8/13/2019	Email from Fred Cachola, Makani Hou	
FHWA/HDOT response to Makani Hou Objection	8/21/2019	Email from Lisa Powell, FHWA	Available on HDOT website as part of Feb 29, 2020 Materials.
Meeting in person with Fred and Paka to resolve complaint.	10/25/2019	Attendees: Makani Hou-Fred Cachola, Paka Harp, FHWA-Lisa Powell, HDOT-Harry Takiue, Pua Aiu, SHPD-Susan Lebo, Sean Naleimaile	Meeting Notes: Sent out by Lisa Powell (FHWA). copy available on HDOT website.
CP meeting to discuss Objection (Via Google Hangouts, access provided by Paka Harp)	2/29/2020	Attendees: Makani Hou-Fred Cachola, Paka Harp, FHWA-Lisa Powell, Richelle Takara SHPD-Susan Lebo, HDOT-Harry Takiue, Julann Sonomura, Marshall Ando, Ken Tatsuguchi,	Finalized notes sent on April 1, 2020 by Lisa Powell. Available on HDOT website.

106 Consultation	Date	Consulted Parties	Documentation
CP Meeting to discuss status of stipulations in Makani Hou objection (close out memos); Update on AAA), via Web chatroom and phone.	5/29/2020	Attendees: ACHP: Mandy Ranslow FHWA: David Clark, Lisa Powell, Richelle Takara, Kaha'a Rezendes HDOT: Marshall Ando, Harry Takiue, Pua Aiu, Julann Sonomura, George Abcede Na Ala Hele: Jackson Bauer AKNHT: Rick Grmirkin, Tanya Lizama HHF: Kiersten Faulkner MH: Fred Cachola, Paka Harp Kona HCC: Kekoa Nazara NHLC: Ashley Obrey (representing MH) KAHO NPS: Jeff Zimpfer NPS: Malia Lane-Kamahele SHPD: Susan Lebo SMS: Faith Rex, Anna Pacheco	Agenda Meeting Notes Close-out memos provided via links to HDOT site or RMT site: Stip 4 Stip 8 Stip 10B Stip 12 Stip 15 Amendment 1, attachment 2 Attach 1: Stip Status Amend 2 Consultation Schedule
Per Stipulation 18, FHWA determined objection could not be resolved and forwarded to ACHP for advice	7/8/2020	Letter from FHWA to ACHP	Letter distributed via email to CPs 7/14/2020 by Lisa Powell, FHWA
Per Stipulation 18, ACHP Responded with advice on objection	8/20/2020	Letter from ACHP to FHWA	Letter distributed via email to CPs 8/21/2020 by Lisa Powell, FHWA
Per Stipulation 18, FHWA provided final decision on objection. FHWA and HDOT will be developing NHO consultation protocols	9/2/2020	Letter from FHWA to ACHP	Letter distributed via email to CPs 9/4/2020 by Lisa Powell, FHWA

106 Consultation	Date	Consulted Parties	Documentation
Meeting held with CPs on ACHPs advice and FHWA response to the objection	9/24/2020	<u>Attendees:</u> FHWA: Meesa Otani, Lisa Powell, Ralph Rizzo, David Clarke HDOT: Harry Takiue, George Abcede, Julann Sonomura, Pua Aiu ACHP: Mandy Ranslow, Jamie Loichinger, Bill Dancingfeather SHPD: Susan Lebo Makani Hou: Fred Cachola, Paka Harp Native Hawaiian Legal Corporation: Ashley Obrey AKNHT: Rick Gmirkin, Amanda Johnson-Campbell OHA: Lauren Morawaski	Materials Posted Included three letters listed above and attachments to letters and agenda, Final notes distributed 10/16/2020 by Lisa Powell, FHWA
Amendment 2			
Draft Amendment 2 distributed via email includes extension of MOA by 5 years, and mitigation for damaged sites (preservation and restoration of 1,000 LF of Mamalahoa Trail in HDOT ROW)	2/4/2020	Draft Amendment 2 and attachments distributed to CPs	Email from Lisa Powell, FHWA
CP meeting to discuss Amendment 2 mitigation for breached sites. Via Web chat room and conference call.	2/8/2020	<u>Attendees:</u> Listed above under Damage to Sites and Buffer Breaches	See Above
CP meeting to discuss Mitigation for breached sites. Via Web chat room and conference call. (Further description of meeting listed above under Damage to Sites and Buffer Breaches)	4/16/2020	<u>Attendees:</u> Listed above under Damage to Sites and Buffer Breaches	See Above
CP meeting via webinar to discuss status of stipulations (Amendment 2 Attachment 1)	5/29/2020	<u>Attendees:</u> Listed Above under Makani Hou Objection Per Stipulation 18	See Above
Draft Amendment 2 and attachments distributed. Mitigation proposal extended to entire HDOT ROW-approximately 2500 LF	7/30/2020	Email from Harry Takiue, HDOT	Email included Draft Amendment 2 and Two Attachments

106 Consultation	Date	Consulted Parties	Documentation
CP meeting held via webinar to give update on After Action Analysis and walk through draft Amendment 2 Clause by Clause	8/13/2020	<p>Attendees:</p> <p>FHWA: Richelle Takara, Meesa Otani, Lisa Powell, David Clarke, Rob Ayers HDOT: Harry Takiue, George Abcede, Julann Sonomura, Pua Aiu ACHP: Mandy Ranslow AKNHT: Rick Gmirkin, Amanda Johnson-Campbell KAHO NPS: Jeff Zimpfer OHA: Lauren Morowski HHF: Kiersten Faulkner</p> <p>Makani Hou: Fred Cachola, Paka Harp Native Hawaiian Legal Corporation: Ashley Obrey Kona HCC: Kekoa Nazara Volpe: Zoe McAlear, Rachel McBrian, Jessica Torossian SMS: Faith Rex, Anna Pacheco</p>	Materials Distributed included Draft Amendment 2, Amendment 2 Attachments and Agenda. Final notes distributed 9/15/2020 by HDOT

1 **MEMORANDUM OF UNDERSTANDING**
2 **Between the**
3 **THE STATE OF HAWAI'I DEPARTMENT OF TRANSPORTATION AND**
4 **THE UNIVERSITY OF HAWAI'I for the Benefit of Ka Haka 'Ula O Ke'elikōlani College of**
5 **Hawaiian Language and Anthropology Department ("Contractors")**
6 **Regarding Impact Mitigation For the**
7 **QUEEN KA'AHUMANU HIGHWAY WIDENING PROJECT, PHASE 2**
8

9 This Memorandum of Understanding (hereafter "MOU"), made and entered into this
10 23rd day of September, 2019, but effective as of 10/1/19 (hereafter the
11 "Effective Date") by and between the STATE OF HAWAI'I (hereafter "HDOT"), by its Director
12 of Transportation, whose business and mailing address is the Ali'i'aimoku Building, 869
13 Punchbowl Street, Honolulu, Hawai'i 96813 and the UNIVERSITY OF HAWAI'I, a body
14 corporate and public corporation, whose business and mailing address is Bachman Hall, 2444
15 Dole Street, Honolulu, Hawai'i 96822 (hereafter the "University").

16
17 **WITNESSETH THAT:**

18 WHEREAS, the Federal Highway Administration ("FHWA") has funded the HDOT
19 highway projects known as Queen Ka'ahumanu Highway Intersection Improvements for the
20 Kaloko-Honokōhau National Historical Park (hereafter the "Kaloko Intersection Project"), and
21 the Queen Ka'ahumanu Highway Widening, Kailua to Keāhole (hereafter the "Queen K
22 Project") (Kaloko Intersection Project and Queen K Project are collectively the "Projects") and
23 described in a May 1996 Final Environmental Assessment ("FEA") which contains a FHWA
24 Finding of No Significant Impact determination dated June 10, 1996 ("FONSI"); and

25 WHEREAS, the HDOT initiated and successfully completed the first phase of the
26 Queen K Project between Henry Street and Kealakehe Parkway in 2009; and

27 WHEREAS, the HDOT initiated and successfully completed the Kaloko Intersection
28 Project in 2018; and

29 WHEREAS, the HDOT initiated and successfully completed the second phase of the
30 Queen K Project between Kealakehe Parkway and the Keāhole Airport Access Road in 2018;
31 and

32 WHEREAS, the HDOT commissioned a supplemental Archaeological Inventory Survey
33 titled "*Archaeological Inventory Survey for the Proposed Queen Ka 'ahumanu Highway*
34 *Widening Phase 2 Project, Kalaoa, Kaloa-'O'oma, 'O'oma 2, Kohanaiki, Kaloko, Honokōhau 1-*
35 *2 and Kealakehe, North Kona District, Hawai'i Island (2012) ("AIS")* in response to concerns
36 raised by the National Park Service (NPS) and certain Native Hawaiian Organizations; and

WHEREAS, the FHWA, in association with HDOT, consulted with NPS officials at Kaloko-Honokōhau National Historical Park, the Ala Kahakai National Historic Trail, the Historic Hawai'i Foundation, Royal Order of Kamehameha, Kona Hawaiian Civic Club, Office of Hawaiian Affairs and Makani Hou o Kaloko Honokōhau regarding the impacts of the Projects; and

WHEREAS, partly as a result of such consultations, the FHWA and HDOT agreed that the adverse effect of the Projects will require HDOT to consider implementing measures that will promote educational and other activities ("Education Program") that will mitigate such adverse effect and help perpetuate the Hawaiian culture; and

WHEREAS, the Advisory Council on Historic Preservation (ACHP), the FHWA, and the Hawaii State Historic Preservation Office (SHPO) entered into a Memorandum of Agreement (MOA) in 2015; and

WHEREAS, this MOU is to complete stipulation 5B of the MOA; and

WHEREAS, in discussions with the University, HDOT, FHWA, and Consulted Parties (CP) identified the Kohala Center as an entity capable of helping to administer the MOU and to assist with of the Education Program, and

WHEREAS, implementation of these measures requires the specialized expertise of the University or other capable entity, and

WHEREAS, the HDOT agrees that the Kohala Center is a capable entity and adds value to the Program, and

WHEREAS, the University has also determined that the Kohala Center is a capable entity, is agreeable to utilize the Kohala Center to assist in the implementation of the Education Program, and has determined the Kohala Center to be eligible as a second-tier sub-recipient, and

WHEREAS, HDOT has identified its desire to implement the following programs to mitigate the adverse effect of the Projects (collectively the "Program"):

- a. Native Hawaiian archaeology/anthropology. Fund and support continuing education in the study of Native Hawaiian archaeology and/or anthropology;
- b. Native Hawaiian studies scholarship program. Fund scholarships, fellowships, or research activities of undergraduate or graduate work in Native Hawaiian Studies at the University of Hawai'i;
- c. Hawaiian immersion/charter school support. Fund and support local Hawaiian immersion and charter schools on the island of Hawai'i;
- d. Recording of oral histories. Fund and support the recording of oral histories in the Kekaha region; and

- 71 e. Cultural programming support. Fund and support cultural programming that captures and
72 interprets the Native Hawaiian culture in the Kekaha region; and

73 WHEREAS, the University and the Kohala Center is identified as entities that could assist
74 with implementing the Program;

75 NOW, THEREFORE, the HDOT and the University agree to implement the Program in
76 accordance with the following terms and conditions as part of the HDOT's efforts to mitigate the
77 impact of the Projects on historic properties:

78 1. HDOT responsibilities. HDOT shall be responsible for the following:

- 79 a. Furnish Program funding. Furnish to the University \$1,250,000 to accomplish the
80 goals of the program which shall be expended over a period of five years.
- 81 b. Assist in obtaining additional Funding. If it appears that there will not be a sufficient
82 amount of Available Funding to continue the Programs for the remainder of the term
83 of this MOU, HDOT will assist the University in obtaining other additional
84 governmental funding to continue the Programs or consider the Program as
85 completed.
- 86 c. Continue the Programs. If HDOT and the University agree that it will be of mutual
87 benefit and in the public interest to continue the Programs beyond the term of this
88 MOU, HDOT and the UH agree to cooperate and work together to obtain additional
89 governmental funding to so continue the Programs beyond the term of this MOU.

90 2. University responsibilities. Subject to and limited by the Available Funding and the
91 University's Funding Limitation (as defined herein), the University shall be responsible
92 for receiving and using the Available Funding received from HDOT for the following
93 Programs:

- 94 a. Native Hawaiian archaeology/anthropology. The University shall initiate or integrate
95 into an existing curriculum a continuing education curriculum emphasizing the study
96 of Native Hawaiian archaeology and/or anthropology. The objective of this
97 curriculum is to advance knowledge of the Native Hawaiian culture on the Big Island,
98 particularly the Kekaha region of West Hawai'i. The University shall identify an
99 individual to lead this effort. A curriculum plan or course outline shall be prepared to
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101 University's existing curriculum in accordance with the University's usual and
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110 island of Hawai'i, particularly the Kekaha region of West Hawai'i, by providing
111 learning opportunities. The University shall report the names of the individuals

receiving support as part of the scholarship program to the Director of Transportation at the end of each fiscal year during the term of this MOU. This report can be incorporated into and made a part of the University's annual report to the HDOT described in subparagraph 2f below.

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 4. Amendments. Any signatory to this MOU may request that it be amended, whereupon the other party shall consult with the proposing party to discuss the nature of such amendment. Amendments to this MOU shall be in writing and signed by HDOT and the University.

- 154 5. Termination. If any signatory to this agreement determines that its terms will not or
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156 attempt to develop an amendment per Stipulation 5, above. If within thirty (30) days or
157 another time period agreed to by the approving signatories an amendment cannot be
158 reached, any party to this agreement may terminate the agreement upon written
159 notification to the other signatory.
- 160 6. Assignment. Neither party may assign or otherwise transfer any interest, right, or
161 obligation under this Agreement without the prior written consent of the other party.
- 162 7. Contact. The University's point of contact (POC) for communications under this MOU is
163 Keiki Kawai'ae'a, who can be reached by e-mail at keiki@hawaii.edu. HDOT's POC for
164 communications under this Agreement is Julann Sonomura, Design Engineer, 50
165 Makaala Street, Hilo, HI 96720. Phone 808-933-8866. E-mail:
166 julann.m.sonomura@hawaii.gov. The University POC shall maintain digital copies of all
167 documents relative to the MOU and provide copies to HDOT upon request. The
168 University POC shall be responsible for receiving and transmitting annual reports to the
169 HDOT POC for distribution to appropriate government agencies. The parties to this
170 MOU shall exchange contact information for the University POC and the HDOT POC
171 and shall keep each other informed of any changes in either POC.
- 172 8. Funding limitation. To the extent that the University is (1) obligated to perform under this
173 MOU, (2) obligated to make any payments under this MOU, or (3) deemed liable under
174 this MOU, the University's obligation and liability under this MOU, and the University's
175 ability to perform hereunder, particularly to pay any amount of monies, is limited to that
176 which is permitted by law, and is subject to the precondition that funds appropriated,
177 allotted or otherwise properly made available for the purpose of such performance or to
178 cover such liability, which under this MOU is \$1,250,000 made available to the
179 University by HDOT and FHWA (hereafter the "University's Funding Limitation"). The
180 University shall not be obligated to pay any more of the University's Funding Limitation
181 toward any obligation under this MOU than was actually made available to the
182 University by HDOT and the FHWA through Task Order.
- 183 9. Entire agreement. This MOU constitutes the entire agreement between the parties hereto,
184 with respect to the subject matter hereof, and supersedes all other prior or concurrent oral
185 or written letters, agreements, and understandings.
- 186 10. No third party rights. The parties to this MOU agree that this MOU shall not be deemed
187 to run to the benefit of any third party.
- 188 11. Governing law. This MOU shall be governed by and construed and interpreted in
189 accordance with the laws of the State of Hawai'i.
- 190 12. Severability. If any provision of this MOU shall be adjudged by a court of competent
191 jurisdiction to be void, invalid, illegal, or unenforceable for any reason, the same shall in
192 no way affect (to the maximum extent permissible by law) any other provision of this
193 MOU, the application of any such provision under circumstances different from those
194 adjudicated by the court, or the validity or enforceability of this MOU, as a whole, and to

the extent necessary, this MOU shall be construed as if such void, invalid, illegal, or unenforceable provision had never been contained herein.

13. Counterpart signatures. The delivery of a signed copy of this MOU by facsimile or by email shall be as effective as the delivery of a signed original. This MOU may be signed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing, and delivery of this MOU, duplicate unexecuted pages of the counterparts may be discarded and the remaining pages assembled as one document.

14. Conflict. In the event of a conflict between the terms and conditions of this MOU and the terms and conditions of any of the exhibits attached to this MOU, the terms of this MOU shall govern and control.

15. Waiver. Any waiver of the terms, conditions, or provisions of this MOU or a party's rights or remedies under this MOU must be in writing to be effective. Failure, neglect, or delay by a party to enforce the terms, conditions, or provisions of this MOU or such party's rights or remedies at any time, will not be construed as a waiver of such party's rights under this MOU prejudice and such will not party's in any right way to take affect any the validity subsequent of the action. whole No or any exercise part or of this enforcement MOU or by any party of that party's rights or remedies under this MOU will preclude the enforcement by such party of any of its other rights or remedies that are available under this MOU or by law.

16. Headings. The headings and captions used herein are for convenience of reference only and are not to be used to construe, interpret, define, or limit the paragraphs to which they may pertain.

17. Authority. HDOT the University acknowledge and agree that the University may be required to obtain the approval of the University's President and the University's Board of Regents to enter into this MOU. If such approvals are not obtained, HDOT and the University agree to engage in negotiations to amend this MOU to address such non-approval.

18. Sub-award to the Kohala Center: The University shall provide funding to the Kohala Center under a sub-award agreement, with the University as a recipient and a pass-through agency, in accordance with applicable provisions of CFDA 20.205. The University shall administer, monitor and manage all work performed by the Kohala Center, for all agreed scope of work, schedule, and budget defined in a sub-agreement between the University and the Kohala Center.

Copies of the sub-agreement and sub-award documents shall be provided to the HDOT for review prior to execution, and final executed copies shall be furnished to the HDOT. The work to be implemented by the University and the Kohala Center shall be clearly defined and described in the sub-agreement document.

IN WITNESS WHEREOF, the parties hereto have cause this MOU to be signed as of the day, month, and year first above written, to be effective as of the Effective Date.

237

238 STATE OF HAWAI'I, by its Director of Transportation

239

240 By: 
241 Jade T. Butay, Director of Transportation

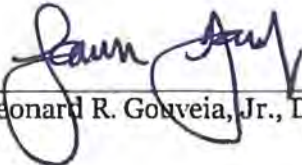
Date: 9/23/19

242

243

244 UNIVERSITY OF HAWAI'I

245

246 By: 
247 Leonard R. Gouveia, Jr., Director, Office of Research Services

Date: JUL 23 2019

248

1 **MEMORANDUM OF UNDERSTANDING**
2 **Between the**
3 **THE STATE OF HAWAI'I DEPARTMENT OF TRANSPORTATION AND**
4 **THE UNIVERSITY OF HAWAI'I for the Benefit of Ka Haka 'Ula O Ke'elikōlani College of**
5 **Hawaiian Language and Anthropology Department ("Contractors")**
6 **Regarding Impact Mitigation For the**
7 **QUEEN KA'AHUMANU HIGHWAY WIDENING PROJECT, PHASE 2**
8

9 This Memorandum of Understanding (hereafter "MOU"), made and entered into this
10 23rd day of September, 2019, but effective as of 10/1/19 (hereafter the
11 "Effective Date") by and between the STATE OF HAWAI'I (hereafter "HDOT"), by its Director
12 of Transportation, whose business and mailing address is the Ali'i'aimoku Building, 869
13 Punchbowl Street, Honolulu, Hawai'i 96813 and the UNIVERSITY OF HAWAI'I, a body
14 corporate and public corporation, whose business and mailing address is Bachman Hall, 2444
15 Dole Street, Honolulu, Hawai'i 96822 (hereafter the "University").

16
17 **WITNESSETH THAT:**

18 WHEREAS, the Federal Highway Administration ("FHWA") has funded the HDOT
19 highway projects known as Queen Ka'ahumanu Highway Intersection Improvements for the
20 Kaloko-Honokōhau National Historical Park (hereafter the "Kaloko Intersection Project"), and
21 the Queen Ka'ahumanu Highway Widening, Kailua to Keāhole (hereafter the "Queen K
22 Project") (Kaloko Intersection Project and Queen K Project are collectively the "Projects") and
23 described in a May 1996 Final Environmental Assessment ("FEA") which contains a FHWA
24 Finding of No Significant Impact determination dated June 10, 1996 ("FONSI"); and

25 WHEREAS, the HDOT initiated and successfully completed the first phase of the
26 Queen K Project between Henry Street and Kealakehe Parkway in 2009; and

27 WHEREAS, the HDOT initiated and successfully completed the Kaloko Intersection
28 Project in 2018; and

29 WHEREAS, the HDOT initiated and successfully completed the second phase of the
30 Queen K Project between Kealakehe Parkway and the Keāhole Airport Access Road in 2018;
31 and

32 WHEREAS, the HDOT commissioned a supplemental Archaeological Inventory Survey
33 titled "*Archaeological Inventory Survey for the Proposed Queen Ka 'ahumanu Highway*
34 *Widening Phase 2 Project, Kalaoa, Kaloa-'O'oma, 'O'oma 2, Kohanaiki, Kaloko, Honokōhau 1-*
35 *2 and Kealakehe, North Kona District, Hawai'i Island (2012) ("AIS")* in response to concerns
36 raised by the National Park Service (NPS) and certain Native Hawaiian Organizations; and

37 WHEREAS, the FHWA, in association with HDOT, consulted with NPS officials at
38 Kaloko-Honokōhau National Historical Park, the Ala Kahakai National Historic Trail, the
39 Historic Hawai'i Foundation, Royal Order of Kamehameha, Kona Hawaiian Civic Club, Office
40 of Hawaiian Affairs and Makani Hou o Kaloko Honokōhau regarding the impacts of the
41 Projects; and

42 WHEREAS, partly as a result of such consultations, the FHWA and HDOT agreed that
43 the adverse effect of the Projects will require HDOT to consider implementing measures that will
44 promote educational and other activities ("Education Program") that will mitigate such adverse
45 effect and help perpetuate the Hawaiian culture; and

46 WHEREAS, the Advisory Council on Historic Preservation (ACHP), the FHWA, and the
47 Hawaii State Historic Preservation Office (SHPO) entered into a Memorandum of Agreement
48 (MOA) in 2015; and

49 WHEREAS, this MOU is to complete stipulation 5B of the MOA; and

50 WHEREAS, in discussions with the University, HDOT, FHWA, and Consulted Parties
51 (CP) identified the Kohala Center as an entity capable of helping to administer the MOU and to
52 assist with of the Education Program, and

53 WHEREAS, implementation of these measures requires the specialized expertise of the
54 University or other capable entity, and

55 WHEREAS, the HDOT agrees that the Kohala Center is a capable entity and adds value
56 to the Program, and

57 WHEREAS, the University has also determined that the Kohala Center is a capable
58 entity, is agreeable to utilize the Kohala Center to assist in the implementation of the Education
59 Program, and has determined the Kohala Center to be eligible as a second-tier sub-recipient, and

60 WHEREAS, HDOT has identified its desire to implement the following programs to
61 mitigate the adverse effect of the Projects (collectively the "Program"):

- 62 a. Native Hawaiian archaeology/anthropology. Fund and support continuing education in
63 the study of Native Hawaiian archaeology and/or anthropology;
- 64 b. Native Hawaiian studies scholarship program. Fund scholarships, fellowships, or research
65 activities of undergraduate or graduate work in Native Hawaiian Studies at the University
66 of Hawai'i;
- 67 c. Hawaiian immersion/charter school support. Fund and support local Hawaiian immersion
68 and charter schools on the island of Hawai'i;
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70 Kekaha region; and

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72 interprets the Native Hawaiian culture in the Kekaha region; and

73 WHEREAS, the University and the Kohala Center is identified as entities that could assist
74 with implementing the Program;

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91 University's Funding Limitation (as defined herein), the University shall be responsible
92 for receiving and using the Available Funding received from HDOT for the following
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97 curriculum is to advance knowledge of the Native Hawaiian culture on the Big Island,
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111 learning opportunities. The University shall report the names of the individuals

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179 University by HDOT and FHWA (hereafter the "University's Funding Limitation"). The
180 University shall not be obligated to pay any more of the University's Funding Limitation
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237

238 STATE OF HAWAI'I, by its Director of Transportation

239

240 By: 
241 Jade T. Butay, Director of Transportation

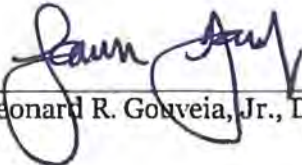
Date: 9/23/19

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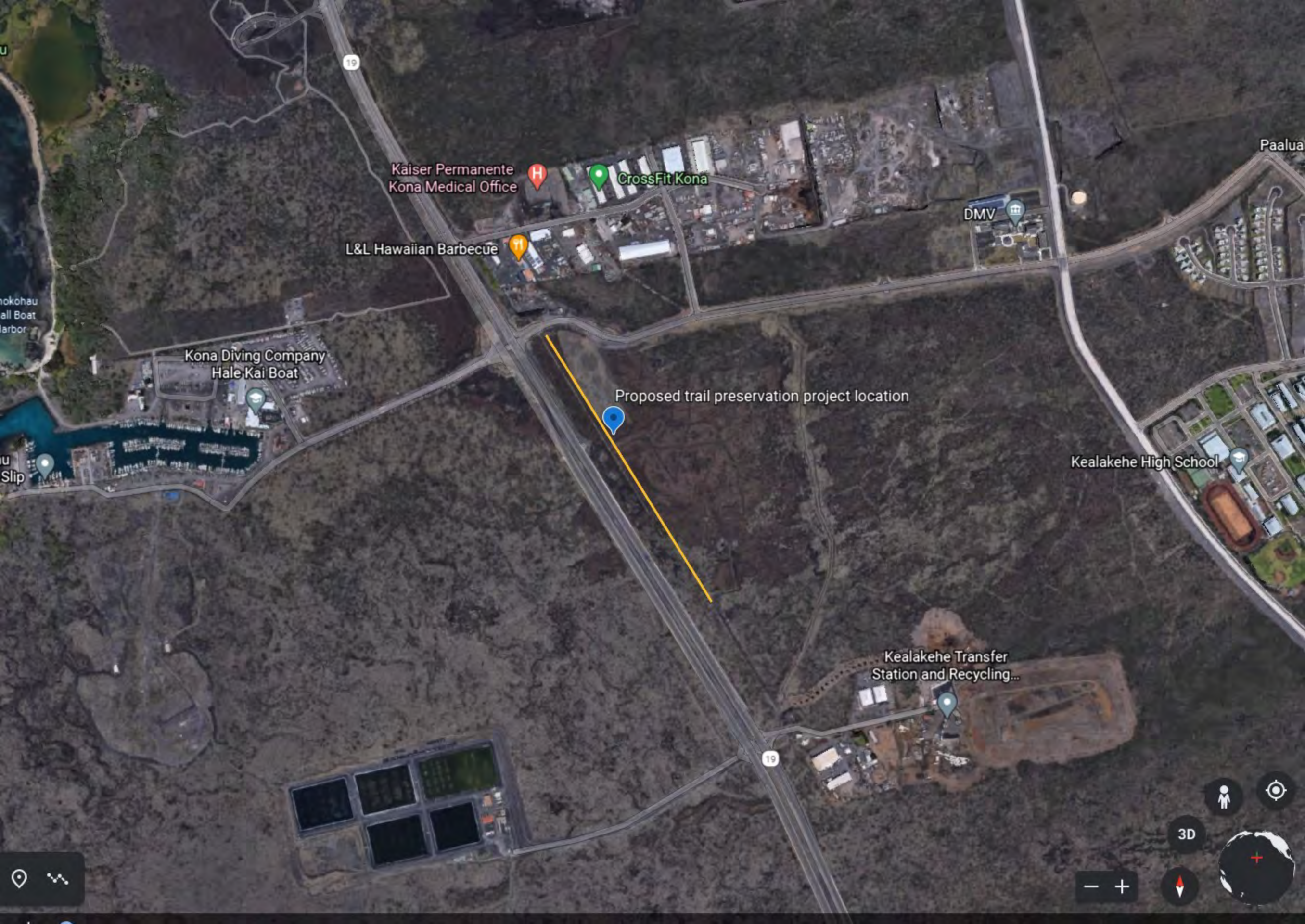
244 UNIVERSITY OF HAWAI'I

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246 By: 
247 Leonard R. Gouveia, Jr., Director, Office of Research Services

Date: JUL 23 2019

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Kaiser Permanente
Kona Medical Office

CrossFit Kona

L&L Hawaiian Barbecue

DMV

Kona Diving Company
Hale Kai Boat

Proposed trail preservation project location

Kealakehe High School

Kealakehe Transfer
Station and Recycling...

Queen Ka'ahumanu Highway Widening Project Agenda

106 Consultation Meeting

December 17, 2020

9:00am to Noon

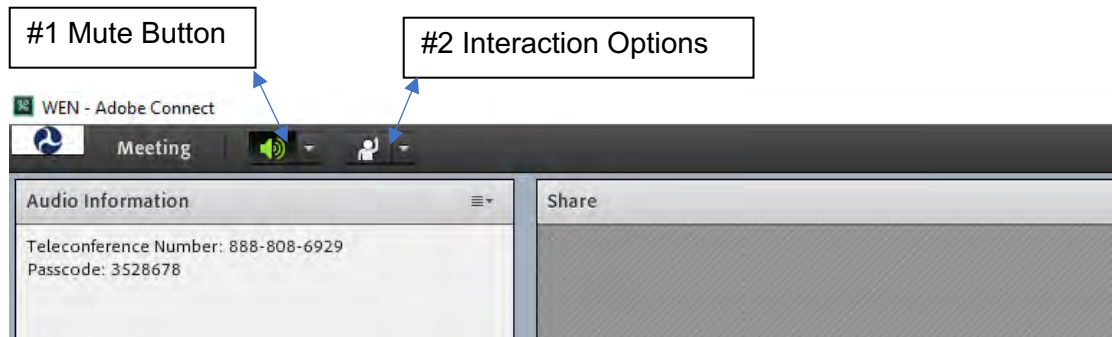
Everyone should join by phone: **Join by phone: 1-888-808-6929 Passcode 3528678**

(During prior meetings we learned that we could hear each other more clearly by connecting by phone. Also, it is best if you mute your phone when not speaking, this also adds clarity to the transmission.)

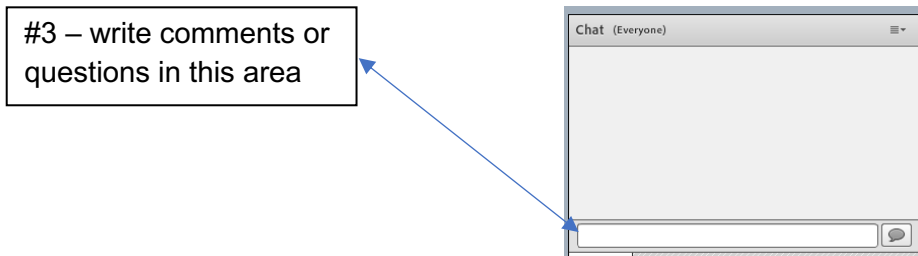
You may also join by computer which will give you more options to interact with the group. If you want to use the computer access, please click on this link prior to the meeting (allow enough time to connect through Adobe Flash Player or Adobe Connect):

<https://connectdot.connectsolutions.com/wen2018/>

The computer screen upper left-hand corner will look like below:



1. When you connect by phone and computer, please mute your computer to avoid feedback. The mute button is in the top left screen, as shown in green in the picture above. Press the down arrow next to it and click on "Mute my Speaker" and then speaker icon will turn white.
2. If you would like to speak, raise your hand using the interaction options accessible by the down arrow next to the raised hand - #2



3. If you would like to submit a written comment or question, utilize the chat pod shown above – it is located in the lower left corner of the screen.
4. (Optional) To share a webcam of yourself, click the icon:



Prior to the meeting please review documents provided with this agenda:

- **Amendment 2 Comment Tables**– these worksheets document the comments that have been received and reviewed, and the response to the comments.
- **Amendment 2** – Final version with “track changes” to identify the changes made
- **Amendment 2** – Final version – clean with no track changes.
 - Attachment 1 – Stipulation Status
 - Attachment 2 – Consultation Summary
 - Attachment 4 - UHH MOU
 - Attachment 5 - Map

Time	Topics	Lead
9:00am	Pule	One of the Consulting Parties
9:05	Welcome & Introductions	George Abcede Faith facilitating Anna notes
9:10	Review protocols for the meeting: <ul style="list-style-type: none"> • Kapu Aloha, treat each person with respect • To speak <ul style="list-style-type: none"> ○ Computer users: Use <i>hand</i> icon if you would like to speak. Chat box also available. ○ Telephone only – Faith will ask periodically if anyone has comments. 	Faith Rex
9:15	Update on After Action Analysis	David Clarke, Rob Ayers
9:30	Update on NHO Consultation Protocol	Ken Tatsuguchi

10:00	Review of the changes made to Amendment Two <ul style="list-style-type: none"> • Page One – changes made to the Whereas Clauses • Page Two – changes made to #1, Stipulation 5.B • Page Three – changes made to #3, Stipulation 20 • Pages Three, Four & Five – Changes made to #4, Stipulation 27 • Page Five –#5, Stipulation 28 Deleted; New #5 Statement added about Signatories signing separately. • Discussion of comments not included 	Lisa Powell, Pua Aiu, Harry Takiue
11:30	Next Steps <ul style="list-style-type: none"> • January 2021 – FHWA distributes Annual Report • January 2021 – After Action Analysis Team Presentation of Report • January 2021 - Amendment 2 to be sent to Signatories 	
11:50	Mahalo	George Abcede
11:55	Pule	One of the Consulting Parties
Noon	Meeting Ends	

September 8, 2020 - Email from ACHP		
ACHP Comments on Amendment 2	Comments	HDOT/FHWA Response
Remove inadvertently	Will remove, however, the trails were not intentionally damaged, as some parties claim. Removal of "inadvertent" does not imply intentionality.	Removed. No qualifier.
Whereas clause for UHH Hilo: Why is this item specifically called out in the WHEREAS clauses for needing more time? Don't several items need more time?	Signs within the park and inadvertent discoveries also need more time but those were addressed in Amendment 1. The UHH MOU is a 5-year program, so it is the driver for the 5-year extension.	No change
Stipulation 5B - Native Hawaiian Cultural Outreach and Education		
MR-This is our opportunity to provide more specificity and accountability. Considering the large amount of money for this item, milestones, consulting protocol, reporting and FHWA oversight should be addressed.	FHWA will include stipulation 5b in the annual MOA reporting. The UHH/HDOT MOU is a contract between HDOT and UHH. The MOU identifies an annual reporting requirement for HDOT/UH in each of the five areas funded. In addition, the annual report will show how funds were dispersed, objectives achieved, the identity of recipients and any changes to the proposal for the upcoming year.	The UHH MOU will be added as an attachment to Amendment 2 to detail the accountability and specificity already within the agreement.
MR-What is the outreach plan? Did they create a plan? Do they have a master list of appropriate programs mutually agreed upon with NHOs.	There is no requirement for outreach. UHH will identify appropriate students. They are in the process of developing a plan for outreaching to potential oral history participants and will include consulting parties in this process.	The UHH MOU will be added as an attachment to Amendment 2.
DF-Regarding "to provide cultural programs and education to support Native Hawaiian Studies": Creators must use special expertise of NHOs.	NHO's will be consulted with regard to the cultural practices within the Kekaha region and the oral history aspect of the program.	UHH/HDOT MOU is now attached to Amendment 2
DF-Is this only for students at UHH?	Yes, they are focusing on Masters and Ph.D. students in their system.	No change.
DF-Will information be available to NHO's also?	Not clear what information?	No change.
DF-What are these? Who decides? Must consult with Makani Hou/NHOs for appropriate projects.	The five areas of this project are documented in the original 2015 MOA and were suggested at a meeting with Makani Hou. UHH held consultation meetings with Makani Hou on Dec 3, 2019 and Nov 6, 2020. Additional consultation is planned. Please note, "education to support Native Hawaiian Studies is within the mission of Ka Haka 'ula o Ke'elikelani. UHH will need to have latitude to ensure programs meet the mission of the college.	UHH/HDOT MOU is now attached to Amendment 2.

September 8, 2020 - Email from ACHP		
ACHP Comments on Amendment 2	Comments	HDOT/FHWA Response
Stipulation 18 - Dispute Resolution		
MR-Change concurring party to "consulting" party, re: who can raise objections.	HDOT will retain ACHP boilerplate language.	No change
Stipulation 27 - Preserve and Restore 2,500 Feet of Mamalahoa Trail		
DF-Consult with NHO's on appropriate actions.	Added initial and up to two more meetings.	Included kick-off meeting and option for two additional meetings.
1.a. DF-Is a Historic Context enough, why not an ethnography?	UHH will be doing Oral History studies regarding the trails, which will be for the entire district. An additional ethnography for the trail would not be commensurate for the trails damaged during construction.	Revise to make project scope very specific. Limit to Kealakehe and Honokohau.
1.b. DF-Don't limit documentation to archaeology. Should be used in conjunction with information about properties of religious and cultural significance.	This comment is unclear. As far as we know, while the trail has cultural significance and is significant under A, it does not have religious significance. Nor have any adjacent religious sites been identified. Much of the area was graded prior to this project.	No change
1.e. MR-Shouldn't this maintenance plan then be used for all portions of the Trail in the HDOT ROW? And would it be a useful guide for HDOT in how to maintain Trails on HDOT Row?	The maintenance plan will be limited to the trail we will be restoring. Using a trail maintenance plan developed for a Kona trail as the basis for a statewide trail maintenance plan would not work because of the different trail types and climates across the islands. However, if DOT ever has another trail to maintain, it will look to this maintenance plan as a start.	No change.
1.e. MR-Will the access plan include ensuring access is provided to NHOs and the public (if appropriate)?	HDOT will establish a gravel parking lot with a paved driveway from the Queen Kaahumanu Highway near the Hawaiian telcom area.	Parking lot language added.
1.f. DF-Site interpretation must be done through consultation with NHOs for appropriate cultural information.	Agreed. NHOs will have opportunities to consult on the plan as noted above.	No change.
2. DF-NHOs should have the opportunity to assist drafting the PDP as having the special expertise.	NHOs, as they requested will review and comment on the plans at 30/60 and 90% completion. Clarification on consultation meetings has been added.	Consulting will be done per schedule above.
2.a. DF- Replace "solicit comments" with "consult".		Changed

September 8, 2020 - Email from ACHP		
ACHP Comments on Amendment 2	Comments	HDOT/FHWA Response
2.a. MR-Delete "attempt to"	During consultation regarding the Makani Hou Objection to the MOA, HDOT/FHWA agreed stipulations needed more clarity on what consultation will entail. "Attempt to" defines the effort that will be made and will not continue indefinitely.	No change.
2.a. DF-Delete "twice" from via email	During consultation regarding the Makani Hou Objection to the MOA, HDOT/FHWA agreed stipulations needed more clarity on what consultation will entail. Twice via email defines the effort that will be made and will not continue indefinitely.	No change
2.a. DF-Delete "once" from via phone calls	Once via phone defines the effort that will be made and will not continue indefinitely.	No change
2.b. DF-NHOs should have the opportunity to assist drafting the PDP as having the special expertise.	NHOs will have opportunities to consult on the plan as provided in Amendment 2.	Additional consultation language added.
2.b. DF- Delete "to review and comment on the drafts of the PDP at the 30%, 60%, an 90% stage"	Progress reviews are needed as the PP is developed to ensure all participants agree to the direction being taken. These review times were added at CPs request.	No change
2.c. DF-This could be rethought if NHOs involved in drafting the document. MR- A lot more time than this should be provided to NHOs and consulting parties	Can provide more time.	Changed to: 30 days for comments when there is no meeting, 15 days for additional comments when there is a meeting.
2.d. DF-Not necessary if NHOs (Makani Hou) are involved in drafting/writing document.	Comments made during meetings and in writing are part of the "discussion".	No change
C. DF-Need specific stipulations to continue consultation with NHOs.	This comment is regarding transfer of the trail. See HDOT response below.	No change
C. MR-With some type of preservation covenant? Will SHPD and other consulting parties (if appropriate) have an opportunity to weigh-in?	HDOT is not contemplating a covenant. Currently in discussion with Na Ala Hele. DLNR owns all state trails, so while HDOT has not formally transferred this trail, under state law, Na Ala Hele is the agency that should manage it.	Language changed to note the this section of the trail falls under the 1892 Trails Act, and is thus technically under the jurisdiction of Na Ala Hele.
Stipulation 28 - APE Agreement between SHPD and HDOT		
MR-This would benefit from more clarification on how the agencies will work together to achieve this.	This item will be removed as it is programmatic, rather than related to this project.	Stipulation 28 removed

November 13, 2020 - Discussion with SHPD		
SHPD Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
Will the trail be preserved in perpetuity? If yes, then need to record easement with BOC and establish metes and bounds.	Yes, it will be preserved in perpetuity. HDOT checked with the Na Ala Hele abstractor regarding and this section of the Mamalahoa falls under the 1892 Trails Act. Will discuss with Na Ala Hele what documentation is needed. Essentially the DLNR has jurisdiction over the trail, should it request the jurisdiction. HDOT is in discussion with Na Ala Hele over future transfer of the trail.	No change
Some clearer definition of what is being preserved. What does preservation mean in the context of a trail that people want to walk on?	This items needs more discussion during consultation on the preservation plan.	No change
Need to document changes to the damaged trail because the original preservation plan for those trails has been changed by the breaches. Where will those changes be documented?	There will be one preservation plan which will include 1) Restoration of the 2,500 feet of trail on the South side of Kealahou Parkway. 2) Documentation of what remains of the Mamalahoa Trail and Trail to Kohanaki within the HDOT ROW 3) Clarify that the buffers for the sites with buffer breaches will remain the same. Documentation of the buffer breaches has been provided to SHPD formally through the Intake system and to the CPs on 7/22/20 in preparation for the 8/13/20 Amendment 2 Consultation meeting.	Add language to include report on buffer breaches.
Need to include some flexibility in UHH MOU. Outline a streamlined consultation if UHH not able to meet goals due to COVID, budget cuts, unable to contact specified number of people for oral histories. Prioritize alternatives if unable to do exactly what stipulation specifies, i.e. can research on x number of document substitute for x number of oral histories?	Agree. Will discuss with UHH and add flexibility language.	Added language to provide flexibility.
Add timelines to UHH MOU	UH needs some time to hire a program manager in order to fully implement this program.	Added that UH will provide a timeline by March 31, 2021. MOU will be attached to the amendment.
Who has oversight responsibility for UHH MOU	This is a contract between HDOT and UHH, therefore HDOT has oversight responsibility.	Language modified to indicate "HDOT shall ensure . . ."
Include AAA report as an attachment to Amendment 2	AAA final report will be included as an attachment to Amendment 2.	Added whereas clause referencing AAA. Final report included as an attachment.
Stipulation 28 does not belong.	Stipulation 28 will be removed.	Stipulation 28 removed.

October 15, 2020 - Email from OHA		
OHA Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
Whereas, add "and" Line 30		Added
Whereas, Line 20: Remove inadvertently throughout as it is laden with painful emotional trauma and isn't even particularly necessary in this context. Suggest different language, consider mistakenly or due to errors in plotted site locations on project maps or no modifier at all.	Will remove, however, the trails were not intentionally damaged, as some parties claim. Removal of "inadvertent" does not imply intentionality.	Removed. No qualifier.
Stipulation 5B - Native Hawaiian Cultural Outreach and Education		
More detail on how FHWA will ensure these actions. Through annual reporting? Responsible oversight and management? How will progress or management of the program be reported back to NHOs in a timely manner?	FHWA will include stipulation 5b in the annual MOA reporting. The UHH/HDOT MOU is a contract between HDOT and UHH. The MOU identifies an annual reporting requirement for HDOT/UH in each of the five areas funded. In addition, the annual report will show how funds were dispersed, objectives achieved, the identity of recipients and any changes to the proposal for the upcoming year.	Will attach MOU to Amendment 2.
Stipulation 27 - Preserve and Restore 2,500 Feet of Mamalahoa Trail		
FHWA/HDOT may want to consider expanding the linear footage of trail restoration of at least allow for the possibility by changing the language here. Much good advice was offered in consultation meetings on the preservation of this larger segment of the trail related to its potential usability. Suggest "2,500 and potentially the proposed 4,300 ft contiguous stretch of Mamalahoa Trail if additional funding or programs are developed that could contribute to the project during the time period of this Amendment.	FHWA/HDOT expanded from 1,000 LF to 2,500 LF after hearing CP feedback at 4/16/2020 consultation. Almost 20 ft of trail (19.5 ft) is being restored for every foot of trail damaged.	No change
May want to clarify upfront that additional consultation will be conducted to develop the PDP and any actions associated with the plan.	Agree on need to clarify consultation.	Added an initial consultation meeting and up to 2 additional meetings in the section on consultation to 2.b.
A. Add "and through consultation with Makani Hou and other NHO on specific measures outlined within the plan."		See above. Consultation added as 2.b.
A.1.b. Delete "Archaeological"	We will have archeologist document the condition of the trail. Archaeological documentation will include plan drawings, photos, and anything else required under state law of an archeological survey.	No change

October 15, 2020 - Email from OHA		
OHA Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
A.1.b. The term a condition assessment could be included here Documentation and a condition assessment along with proposed bmps for managing vegetation and other preservation measures. This documentation work could include consultation or site visits to discuss the trail while it is being assessed. Information should be shared with NHO in a timely manner following the condition assessment or documentation to allow time for input on preservation measures.	HDOT will follow HAR 13-277, which has similar language.	No change
A. 1.f. Delete "some" as qualifier for recognition	Agreed.	Deleted "some."
A. 1.f. Include consultation for interpretation of site	HDOT will follow HAR 13-277, which has similar language.	No change
A. 1.g. Include consultation for permanent markers	HDOT will follow HAR 13-277, which has similar language.	No change
2. a. Add postal mail.	Agreed.	Postal mail added at 2.a.
A Consultation protocol should be developed that all parties have a chance to review and should include appropriate levels of outreach and communication with all consulting parties	Section reworked.	See above. Consultation added as 2.b.
2.c. Change from 15d to 30d	Can add more time for response.	Rewritten to 30d without meeting, 15d additional days with meeting. Item 2.d.
2.d. This whole section should be re-written	agreed	Rewritten, refer to Item 2.e.
B.1. SHPD should be involved in consultation to develop the document (as opposed to sending for approval).	6E says that SHPD reviews and comments. SHPD will be one of the consulting parties to this Preservation Plan.	No change
Timeline for implementation?	Agreed.	Language to develop timeline through consultation on PP added.
Stipulation 28 - APE Agreement between SHPD and HDOT		
This agreement should also include some level of consultation with NHO. NHO have had many shared experiences dealing with the multitude of problems related to incorrect APE that have resulted in impacts to cultural and natural resources. NHO can help identify consistent and repeated issues as well as less rare instances.	This item will be removed as it is programmatic, rather than related to this project.	Stipulation removed

September 3, 2020 - Email from Paka Harp		
MHOKH Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
Amendment 2 should be another time extension to allow enough consultation time to do the mitigation right.	Per the Amendment 2 Schedule (Stipulation 25), Amendment 2 is scheduled to be finalized December 2020 to allow time for signatures. Amendment 2 will include mitigation for trails damaged during construction. It will also include a 5 year time extension to complete the original MOA and mitigation for the damaged sites. Attachment 2 beginning on Page 2 details the consultation to date on the sites damaged during construction. This consultation began in 2016 and includes 8 consultation meetings.	No change in timing.
Definition of what is commensurate should be negotiated with CPs.	Commensurate mitigation is determined by the lead federal agency (FHWA) per 23CFR771.105(d). This was further detailed in an email from Lisa Powell, FHWA to CPs on 2/7/2020.	No change
October 15, 2020 - Email from Makani Hou O Kaloko Honokohau		
CP Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
Replace all five of the WHEREAS clauses with the following:		
<p>New: WHEREAS, the Federal Highways Administration (FHWA) has funded the State of Hawai'i Department of Transportation (HDOT) projects (collectively "Project") and a 2012 Archaeological Inventory Survey prepared for the Project that recommends a Finding of Adverse Effect; and</p> <p>Reviewer Comment: Updates 2015 MOA 1996 FONSI citation with 2012 Adverse Effect. QUESTION: Should the first WHEREAS clause in 2015 MOA be replaced in its entirety as it does not reflect the best available information at that time?</p>	The first whereas clause defines the undertaking, so will stay where it is. The 2015 MOA and Amendment 1 both defined the adverse effect. Since this is an amendment, there is no need to go over the effect determination.	No change
<p>New: WHEREAS, the Project is a federal undertaking under 36 CFR § 800.16 (y) requiring compliance with Section 106 of the National Historic Preservation Act, the National Environmental Policy Act, and Section 4(f) of the Department of Transportation Act; and</p> <p>Reviewer Comment: Fact.</p>	Compliance with all of these laws are required, but MOA does not have to address all of the compliance, only mitigation for adverse effects. Also, since this is an amendment, the original MOA notes the funding source.	No change
<p>New: WHEREAS, the State of Hawai'i Historic Preservation Officer (SHOPO) recommended in a March 12, 2013 letter to FHWA that SIHP-06432 be afforded protection under Section 4(f) and, thereafter, FHWA exempted the site from Section 4(f) protection; and</p> <p>Reviewer Comments: Fact. This SHOPO letter was never thoroughly discussed with consulting parties although concerns were repeatedly raised regarding this particular site.</p>	Section 4(f) is complete and is a different process addressed under NEPA. Also, John Nickelson addressed 4(f) questions raised by Makani Hou in a series of e-mails to Mr. Harp prior to finalizing the 2015 MOA. Meesa Otani has also addressed Makani Hou in a separate series of e-mails with Mr. Harp during consultation on Amendment 2.	No change
<p>New: WHEREAS, after seven years of delays due to Project contract bidding challenges and the discovery of 57 additional historic properties in 2012 requiring amendments to the Project's archaeological documents and further Section 106 consultation, a 5-year Memorandum of Agreement (MOA) was hastily drafted and executed on March 17, 2015 between signatories, invited signatories, and concurring parties; and</p> <p>Reviewer Comments: Demonstrates reasons why the process was delayed resulting in a rush to move forward with a hastily written MOA. In addition, multiple HDOT press releases on false construction start dates added public pressure on HDOT to start construction. Numerous unreported historical properties demonstrate the lack of professional standards in early archaeological work</p>	Amendment Two language focuses on moving forward from the original MOA and Amendment 1. Events referenced were prior to 2015 MOA.	No change

September 3, 2020 - Email from Paka Harp		
MHOKH Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
<p>New: WHEREAS, prior to execution of the 2015 MOA, a Memorandum of Understanding (MOU) between HDOT and the University of Hawai'i Hilo (UHH) conveying responsibility for implementation of Stipulation 5.B to UHH was executed with no consultation with the consulting parties, and on September 23, 2019 a second MOU increasing funding and adding the Kohala Center to assist with implementation of Stipulation 5.B. was executed, again with no consultation; and</p> <p>Reviewer Comments: Fact. The questions we have on this matter that were never answered include, 1) Why did the HDOT enter into an MOU with UHH prior to the execution of the MOA with no consultation? And 2) Why did HDOT enter into a second MOU with UHH again without consultation considering the fact that concerns on the lack of consultation was raised on numerous occasions prior to the second MOU?</p>	<p>MOA language focuses on moving forward from the original MOA and Amendment 1. Consultation meetings with UHH on MOU were held on Dec 3, 2019 and Nov 6, 2020.</p>	<p>Will add MOU as an attachment to Amendment 2. It provides more clarity to the questions being raised. Consultation meeting on program was held on Nov 6, 2020.</p>
<p>New: WHEREAS, the 2015 MOA failed to specifically describe each mitigation measure as well as procedures for their implementation thereby causing confusion, misunderstandings, and disagreements among the MOA parties regarding mitigation deliverables while multiple replacements of HDOT and FHWA representatives created further confusion; and</p> <p>Reviewer Comment: Fact.</p>	<p>Amendment Two language focuses on moving forward from the original MOA and Amendment 1. Amendment 1 currently addressed in 3rd Whereas clause. Summary of stipulation status addressed in Attachment 1.</p>	<p>No change</p>
<p>New: WHEREAS, unable to meet its obligations under the 2015 MOA, FHWA proposed Amendment One to extend the 2015 MOA to March 17, 2021 to negotiate mitigation for construction damages to historic properties, conduct an After Action Analysis to determine causes of construction damages and buffer breaches and develop procedures to prevent these impacts in the future, and continue implementation of mitigation measures memorialized in the 2015 MOA; and</p> <p>Reviewer Comment: Fact.</p>	<p>Amendment Two language focuses on moving forward from the original MOA and Amendment 1. Amendment 1 currently addressed in 3rd Whereas clause. Summary of stipulation status addressed in Attachment 1.</p>	<p>Amendment 2 has been revised to include Final After Action Analysis as an attachment.</p>
<p>New: WHEREAS, on August 13, 2019 Makani Hou filed 12 objections on the implementation of the MOA with the FHWA and on May 29, 2020 objections were not resolved and FHWA requested the ACHP's advisory comments pursuant to Stipulation 18 of the 2015 MOA, and on August 10, 2020 the ACHP responded with 27 specific recommendations to assist the FHWA in resolving the objections; and</p> <p>Reviewer Comment: Fact.</p>	<p>The Makani Hou objection is memorialized in Attachment 1 and 2. FHWA and HDOT have agreed to NHO Consultation Protocols. Please note that FHWA has not agreed to further consult on any of the challenged stipulations. FHWA has determined Stipulations 8, 10, 12, 14, 15 and the dispute to be complete.</p>	<p>No change</p>
<p>New: WHEREAS, FHWA proposed Amendment Two to the 2015 MOA to further extend the term of the 2015 MOA as amended from March 17, 2021 to March 17, 2026 to complete requirements memorialized in the 2015 MOA as amended, implement mitigation for construction damages and buffer breaches, develop protocols for consulting with Native Hawaiians, and to resolve objections on the implementation of the MOA; and</p> <p>Reviewer Comment: Fact.</p>	<p>Amendment 2 extends the terms of the 2015 MOA to complete the following: 1) the UHH MOA, 2) the National Park signage (in Amendment 1), 3) the mitigation for the damaged trails. Note that FHWA has finalized its response to objections raised by Makani Hou. NHO Consultation protocols will be Statewide and are separate from this project.</p>	<p>No change</p>

September 3, 2020 - Email from Paka Harp		
MHOKH Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
<p>New:</p> <p>Whereas, a coalition of invited signatories and concurring parties (listed) proposed stipulations to mitigate construction damages of historic properties identified as SIHP 50-10-27-00002 Mamalahoa Trail (a section 4(f) property) at two locations; SIHP 50-10-27-10714, Road to the Sea (a section 4(f) property) at two locations; and to mitigate adverse effects to natural areas adjacent to historic properties caused by breaches to interim protection buffers at SIHP 10-27-28783, Agricultural Complex, SIHP 50-10-27-28811, Pahoeohoe Excavation; and SIHP 50-10-27-19947, Pahoeohoe Marker; and</p> <p>Reviewer Comment: Fact.</p>	<p>After the coalition had presented its proposal to FHWA and HDOT, leaders of both agencies noted that while the proposal was excellent in its broad scope to address trails in the Kekaha area, it was not commensurate with the damage to the two trails in question. However, recognizing the importance of the overall plan presented, FHWA did a presentation on TAP funding at the Feb 8, 2020 meeting. TAP funding would require county or NPS participation (HDOT not eligible) and must meet federal funding reporting requirements, but would also allow for the completion of the overall plan over time. Other funding options to complete this plan may also be available. FHWA and HDOT note that they requested that the consulting parties either prioritize their list, or come up with one, or possibly 2 items that were most important that it would be possible to fund under this mitigation. However, the consulting parties said they were unable to prioritize the list.</p>	<p>No change</p>
<p>New:</p> <p>WHEREAS, FHWA rejected the coalition's proposed mitigation on the grounds that the requested mitigation measures were not "commensurate" with damages to the above listed historic properties and instead introduced a counter-proposal to perform vegetation clearing "and/or" restoration for the portion of the Māmalahoa Trail within its right of way (approximately 2,500 feet) as well as a maintenance plan that FHWA cannot fund beyond the term of the MOA as amended while no mitigation for breaches of interim protection buffers was considered; and</p> <p>Reviewer Comment: Fact.</p>	<p>See above and MOA focuses on what mitigation is agreed to and which agencies or groups have responsibility to carry out the stipulations.</p>	<p>More detail was added to Attachment 2 to memorialize the 106 consultation process for Amendment 2 and the process to arrive at the proposed mitigation for the damaged trails.</p>
<p>New:</p> <p>WHEREAS, Hawai'i Revised Statutes §264-1(2)(b) declares that all trails, and other non-vehicular rights-of-way in the State declared to be public rights-of-ways by the Highways Act of 1892 are declared to be public trails under the jurisdiction of the State Board of Land and Natural Resources unless it was created by or dedicated to a particular county, in which case it shall be under the jurisdiction of that county; and</p> <p>Reviewer Comment: Fact.</p>	<p>It is interesting to note that the section of trail within the HDOT ROW is a "1892 Trail" and thus technically already belongs to DLNR. Thus, eventual transfer of the trail to Na Ala Hele is part of a logical legal progression. Language re: Highways Act of 1892 is included in Stipulation 27.</p>	<p>Whereas clause unchanged. Included language re: Section of Mamalahoa is a 1892 Trail added to Amendment 2, Stipulation 27, Section 2D.</p>
<p>New:</p> <p>WHEREAS, the State of Hawai'i and Hawai'i County governments continue to sell portions of Hawai'i's historic trails to private entities and destroying portions of Hawai'i's historic trails for public projects while public interest continues to increase for the preservation of Hawai'i's historic public trails for outdoor recreational and educational activities; and</p> <p>Reviewer Comment: Fact.</p>	<p>Outside scope of the MOA</p>	<p>No change</p>
Replace NOW THEREFORE clause with:		
<p>Replace NOW THEREFORE clause with:</p> <p>NOW THEREFORE, in furtherance of the above recitals, the FHWA, the SHOPO, the ACHP, HDOT, and invited and concurring parties agree that the Project shall be implemented in accordance with the stipulations of the 2015 MOA as amended to take into account the Project's adverse effects on Hawai'i's historic properties:</p>	<p>Amendment 2 mitigation is limited to damage to the Mamalahoa Trail and the Trail to Kohanaiki.</p>	<p>No change</p>
Replace all NOW THEREFORE Paragraphs 1 through 5 with the following:		
<p>1. CONSULTATION PROTOCOLS DEVELOPMENT</p> <p>FHWA shall within 9-months of the execution date of this amendment, complete written guidance and protocols for consulting with Native Hawaiians in consultation with the ACHP, Makani Hou, and other interested Native Hawaiians. Established consultation protocols shall be memorialized in the proposed Programmatic Agreement for federally funded projects in Hawai'i.</p>	<p>FHWA/HDOT have agreed to develop NHO consultation protocols outside of the MOA. They will provide a scope and schedule by the end of the year. This was in response to the Makani Hou objection and ACHP advice.</p>	<p>No change</p>

September 3, 2020 - Email from Paka Harp		
MHOKH Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
<p>2. ACHP ADVICE</p> <p>The FHWA shall consider the advice provided by the ACHP on August 10, 2020, in relation to the 12 objections submitted to the ACHP and apply such advice toward resolving outstanding objections.</p>	<p>The FHWA considered the advice provided by ACHP and provided a response on September 2, 2020. Also, a meeting was held with consulting parties on 9/24/2020. The FHWA has provided a final decision on Makani Hou's objection per Stipulation 18. FHWA also determined stipulations 8, 10, 11, 12 and 15 are complete. See Attachment 1 to Amendment 2 for status of stipulations.</p>	No change
<p>3. PROJECT DOCUMENTATION</p> <p>The FHWA shall organized by date and type all Project documentation including meeting minutes and notes and publish such documentation on a publicly accessible website. Whenever possible documentation shall be published in the .PDF format to provide broad public accessibility.</p>	<p>Project documentation for Amendments 1 and 2 is available on the HDOT website, which is available to the public: https://hidot.hawaii.gov/highways/queen-kaahumanu-widening-mitigation/</p>	No change
4. PRE-MITIGATION IMPLEMENTATION CONSULTATION		
<p>A. To insure that the intent of mitigation stipulations will be met, implementation shall be preceded by consultations with parties to the 2015 MOA. Consultation shall include incomplete mitigation stipulations, stipulations deemed complete by FHWA but challenged by one or more parties to the 2015 MOA, as well as mitigation stipulations contained herein.</p>	<p>Consultation will occur with parties to the 2015 MOA for the restoration of the trail as outlined in Stipulation 26. The FHWA has provided a final decision on Makani Hou's objection per Stipulation 18. FHWA determined stipulations 8, 10, 11, 12 and 15 are complete. The status of the stipulations is shown in Attachment A.</p>	No change
<p>B. FHWA shall provide monthly mitigation implementation reports to all 2015 MOA points of contacts and sub-contacts if any. Reports shall also be published on the publicly accessible website discussed under 3.PROJECT DOCUMENTATION above.</p>	<p>Annual reporting is required by the 2015 MOA and will continue until the MOA is complete. HDOT will post annual report to the HDOT website.</p>	No change
5. MITIGATION FOR CONSTRUCTION DAMAGES AND BREACHES		
<p>A. FHWA shall contract professional interpretive planners to develop an Interpretive Plan for the Māmalahoa Trail in consultation with Nā Ala Hele Trail and Access Program, Ala Kahakai NHT, and parties to the 2015 MOA.</p>	<p>HDOT shall follow the requirements of HAR 13-277, which requires interpretation.</p>	No change
<p>B. RECORDATION OF CERTIFIED TITLES</p> <p>FHWA shall contract a Certified Land Title Examiner and have certified land title documents for the Māmalahoa Trail and the Trail to the Sea recorded at the Bureau of Conveyances' Land Court recordation system as well as with the County of Hawai'i's Tax Map Key recordation system.</p>	<p>FHWA has stated that these items are not commensurate with the damage to the trails. Alternate sources of funding are available and were provided to the CPs.</p>	No change
<p>C. HISTORIC TRAILS INFORMATION COMPILATION</p> <p>FHWA shall fund the compilation of information on the Māmalahoa Trail and the Road to the Sea.</p>	<p>FHWA has stated that these items are not commensurate with the damage to the trails. Alternate sources of funding are available and were provided to the CPs.</p>	No change
<u>Implementation:</u>		
<p>1) FHWA shall contract reputable professionals to research and compile information regarding the Māmalahoa Trail and the Trail to the Sea including archaeological reports, cultural landscape studies, maps, oral histories, newspapers articles, Hawaiian Kingdom, Territory of Hawai'i, and State of Hawai'i records including information on trail segments sold or otherwise disposed of by the State of Hawai'i and Hawai'i County.</p>	<p>FHWA has stated that these items are not commensurate with the damage to the trails. Alternate sources of funding are available and were provided to the CPs.</p>	No change.
<p>2) All products of this stipulation shall digitized and made publicly available through the State of Hawai'i Nā Ala Hele Trail and Access Program website.</p>	<p>FHWA has stated that these items are not commensurate with the damage to the trails. Alternate sources of funding are available and were provided to the CPs.</p>	No change
D. HISTORIC TRAILS PUBLIC USE PLAN		
<u>Implementation:</u>		
<p>1) The Kohala Center in consultation with Nā Ala Hele Trail and Access Program, Ala Kahakai NHT, and parties to the 2015 MOA shall produce a Historic Trails Public Use Plan for the Māmalahoa Trail and the Trail to the Sea.</p>	<p>FHWA has stated that these items are not commensurate with the damage to the trails. Alternate sources of funding are available and were provided to the CPs.</p>	No change

September 3, 2020 - Email from Paka Harp		
MHOKH Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
2)Public consultation meetings shall be convened in Kona, Hilo, South Kohala, and Ka'u to discuss development of the Historic Trails Public Use Plan.	FHWA has stated that these items are not commensurate with the damage to the trails. Alternate sources of funding are available and were provided to the CPs.	No change
3)Public meeting notifications shall be published in local newspapers and through radio broadcast announcements.	FHWA has stated that these items are not commensurate with the damage to the trails. Alternate sources of funding are available and were provided to the CPs.	No change
4)Eight refreshments shall be made available during public meetings.	FHWA has stated that these items are not commensurate with the damage to the trails. Alternate sources of funding are available and were provided to the CPs.	No change
5)All products of this stipulation shall be digitized and made publicly available through the State of Hawai'i Nā Ala Hele Trail and Access Program website.	FHWA has stated that these items are not commensurate with the damage to the trails. Alternate sources of funding are available and were provided to the CPs.	No change
E. MĀMALAHOA TRAIL IMPROVEMENTS		
FHWA shall fund an archeological condition assessment and plans for trail restoration and preservation, invasive vegetation clearing, and stabilization where deemed necessary through consultations for the section of the Māmalahoa Trail located between Kealakehe Parkway and Hale Makai Place.	HDOT will follow HAR 13-277, which has similar language.	No Change.
<u>Implementation:</u>		
1)A condition assessment of the Māmalahoa Trail will be carried out and documentation compiled into a restoration and preservation plan for the Trail.	HDOT will follow HAR 13-277, which has similar language, assessment of the trail will be limited to 2,500 feet within the ROW.	No change
2)Vegetation clearing and trail stabilization shall be carried out in accordance with applicable historic preservation laws and Secretary of the Interior standards for Historic Preservation (https://www.nps.gov/tps/standards/four-treatments/treatment-preservation.htm).	HDOT will follow HAR 13-277, which has similar language. Limited to 2,500 feet	No change
3)Prior to vegetation clearing and trail preservation work, consultation with Ala Kahakai NHT, Nā Ala Hele Trail and Access Program, and consulting parties to the 2015 MOA shall be conducted.	Added consultation meetings	Added consultation meetings
F. OFF-STREET PARKING, TRAIL ACCESS, AND SIGNAGE		
FHWA shall establish a paved off-street parking area near the Queen Ka'ahumanu Highway-Kealakehe Parkway intersection with pedestrian access to the Māmalahoa Trail.	FHWA/HDOT reserves the right to establish a gravel parking area where most feasible.	Parking lot language added to Stipulation 27.
<u>Implementation:</u>		
1) FHWA shall establish a paved off-street parking area on HDOT property or on Hawai'i County property under an agreement with Hawai'i County containing a minimum 10 parking stalls including two ADA compliant stalls and two stalls to accommodate school and tour buses.	HDOT will establish a gravel parking lot with a paved driveway from the Queen Kaahumanu Highway near the Hawaiian telcom area.	Parking lot language added to Stipulation 27.
2)FHWA shall install wayside signage at the parking area and at key interpretive features along the Māmalahoa Trail, as determined in the Interpretive Plan under 5.A.	HDOT has not agreed to an interpretive plan for 2,500 feet of trail at this time. Interpretive signs can be discussed with consulting parties during development of the Preservation Plan.	Item to be addressed during consultation on preservation plan.
3)FHWA shall install silhouette figures at the parking area and at key interpretive features along the Māmalahoa Trail, as determined in the Interpretive Plan under 5.A.	Additional silhouette figures are not commensurate. Interpretation of the trail could include silhouette figures and will be discussed with consulting parties during development of the Preservation Plan.	Item to be addressed during consultation on preservation plan.
4)The Māmalahoa Trail is not ADA compliant and ADA compliance can be accomplished by way of virtual web-based interpretive media, recorded phone tours, apps, etc.	HDOT will apply for an ADA waiver. Development of a virtual web-based interpretive media, recorded phone tours, apps, etc. are not commensurate to the trail damage.	No change.
G. PROTECTIVE BUFFER BREACHES		

September 3, 2020 - Email from Paka Harp		
MHOKH Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
Wherever protective buffers were breached resulting in disturbance to areas designated for preservation, FHWA shall restore the disturbed area by hand to its natural state and shall require that an archaeological monitor and a cultural monitor will be present to monitor restoration activities.	FHWA determined there were no adverse effects to the sites where buffer breaches occurred since the sites were not impacted. Therefore, there is no mitigation under Section 106. HDOT submitted buffer breach report to SHPD. It was also sent to all CPs as part of a response from HT to PH on 7/22/20.	No change
H. PRE-MITIGATION COMPLETION CONSULTATION		
FHWA shall consult parties to the 2015 MOA and attempt to gain consensus on the completion of all mitigation stipulations contained in the 2015 MOA as amended and mitigation stipulations contained herein prior to making final determinations on satisfactory completion.	FHWA shall take comments of consulting parties into consideration as required by 36 CFR 800. As noted above, the stipulation status is summarized in Attachment 1. The consultation summary of the Makani Hou objection is summarized in Attachment 2.	No change
I. MITIGATION IMPLEMENTATION TIMELINES		
A timeline schedule for implementation of mitigating stipulations shall be established in consultation with parties to the MOA.	Timeline for 5B and trail mitigation	will add language
6. STIPULATION 18. TERRAIN MODEL shall be replaced with the following text: FHWA shall commission the construction of an interactive physical terrain model depicting the lands of Kekaha (between Kailua and 'Anaeho'omalua) in consultation with Makani Hou o Kaloko-Honokohau. The interactive physical model shall incorporate topographic relief, traditional place names, historic trails and settlement locations, interpretive signs and other important landmarks to be determined during consultation. The interactive feature shall provide a visual effect (be it by lighting or other means) to show, at the push of a button, how and where the Queen Ka'ahumanu Highway bisected all mauka-makai trails in the Kekaha region. The physical interactive model shall be of such scale that it can be transported to other locations and be used as a teaching tool. An interactive digital model shall also be developed to include similar information and interactive features as the interactive physical model. The Kaloko-Honokohau National Historical Park (NPS) has expressed renewed interest in accepting the interactive physical terrain model and housing at the NPS Hale Ho'okipa Visitor Center. An agreement transferring ownership of the interactive physical and interactive electronic terrain models to NPS shall be entered into between FHWA and NPS.	Stipulation 18 is complete. Please see Attachment 1 to Amendment 2--MOA stipulation Status. An additional terrain model is not commensurate with the sites damaged during construction.	No change.
7. STIPULATION 20 OF THE 2015 MOA SHALL BE REPLACED WITH THE FOLLOWING TEXT: DURATION. The original term of the MOA was for five years from the execution of the MOA with the original term ending March 17, 2020. Amendment One extended the MOA by a period of one (1) year to March 17, 2021. The MOA duration is extended by Amendment Two by a period of five (5) years from the March 17, 2021 to March 17, 2026, or upon satisfactory completion of the stipulations whichever comes first.		Included some of the clarifying language provided.
8. AREA OF POTENTIAL EFFECT AGREEMENT BETWEEN FHWA AND SHOPO. Within 1 year of the execution of Amendment 2 FHWA shall complete the development of an Area of Potential Effect (APE) Agreement with the SHOPO in consultation with SHPD and HDOT to insure proper identification of the APE for future HDOT projects. This agreement shall be part of a programmatic agreement developed between the FHWA, HDOT, SHOPO, and SHPD.	This item will be removed as it is programmatic, rather than related to this project.	This item will be removed.
9. COUNTERPART SIGNATURES This Amendment may be executed in counterparts. Each signature page shall be incorporated into Amendment Two and considered a part of this Amendment.	Agreed.	Added counterpart language.

August 13, 2020 - Email from Historic Hawaii Foundation		
HHF Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
Add 3 Whereas clauses (lines 34-38). This will explain the objection and help frame the issue. If a new stip is added to address the resolution of the objection, this would tie in.	This is summarized in Attachment 2	More detail was added to Attachment 2 regarding the MHOKH objection.
1) Whereas, Makani Hou filed a formal objection under Stipulation 18 on (date) concerning the manner in which FHWA and HDOT implemented the MOA; and	The FHWA considered the advice provided by ACHP and provided a response on September 2, 2020. Also, a meeting was held with consulting parties on 9/24/2020. The FHWA has provided a final decision on Makani Hou's objection per Stipulation 18. FHWA also determined stipulations 8, 10, 11, 12 and 15 are complete (see Attachment 1 to Amendment 2). The consultation for the Makani Hou objection is memorialized in Attachment 2.	More detail was added to Attachment 2 regarding the MHOKH objection.
2) Whereas, FHWA referred the objection and proposed resolution to the ACHP for comment on (date);and	This is summarized in Attachment 2	More detail was added to Attachment 2 regarding the MHOKH objection.
3) Whereas, ACHP provided comment and recommendations on (date), and	This is summarized in Attachment 2	More detail was added to Attachment 2 regarding the MHOKH objection.
Stipulation 5B - Native Hawaiian Cultural Outreach and Education		
1. Add: The HDOT and the University of Hawaii at Hilo (UHH) have entered into a Memorandum of Understanding (MOU) to provide cultural programs and education to support Native Hawaiian Studies. The HDOT shall ensure that . . .	This is the current language in the MOA.	No change
1. How will HDOT ensure that the MOU is fully implemented.	Annual reports documenting the activities of the past calendar year will be made available to all consulting parties.	Added additional language regarding reports: UHH will provide annual reports documenting the activities of the past calendar year, which will be made available to all consulting parties. If any activities were not accomplished, UHH will so note, including reasons goals were not met and provide corrective action in the annual report.
1. Clarify who will provide the annual reports (UHH or HDOT)	Clarifying language added.	See above.
Stipulation 18 - Dispute Resolution		
Change concurring to consulting party.	FHWA HDOT will continue to use boilerplate language.	No change
Should invite/offer opportunity for other signatories and consulting parties to participate in the consultation to resolve the objection. Don't close the consultation to include only the objecting party. At a minimum, HDOT and SHPD should be involved.	This stipulation is standard language. All consulting parties will be notified, and provided a copy of FHWA's written response. They can provide comments upon being notified, as was done in the dispute resolution for the 2015 MOA.	No change.
Stipulation 27 - Preserve and Restore 2,500 Feet of Mamalahoa Trail		
1. Remove "and Development" to read, "Preservation Plan"		Changed

August 13, 2020 - Email from Historic Hawaii Foundation		
HHF Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
1.a. Expand this Stip to include details on the research methodology, table of contents, professional qualifications, and extent of the research. An outline could be an exhibit. This needs to be specific so it is clear from the outset what the extent of the research will be.	Its difficult to have too much detail as this work will be contracted out, and there needs to be some flexibility for contract negotiations. We are planning on following HAR 13-277, which provides a fairly broad outline. FHWA/HDOT agree on need for clarify.	Item to be addressed during consultation on preservation plan.
1.c. Refer to or define what is meant by "restore". Is this a reference to the Secretary of the Interior's Standards for restoration or to a specific standard for Hawaiian trails/this trail or something else? Restoration should address aspects of integrity (location, setting, design, materials, workmanship, association, feeling).	Need to discuss with SHPD and Na Ala Hele for better idea of requirements.	In discussion.
1.e. Maintenance should cover all segments within the HDOT ROW, not only this section.	The maintenance plan will be limited to the trail we will be restoring. Using a trail maintenance plan developed for a Kona trail as the basis for a statewide trail maintenance plan would not work because of the different trail types and climates across the islands. However, if DOT ever has another trail to maintain, it will look to this maintenance plan as a start.	No change
1.e. Does SHPD conduct inspections? Or is this proposing an expansion of the agencies roles and responsibilities	HAR 13-277 requires SHPD inspections.	No change
2. Consultation		
2.a. Is this a review and comment process or a consultation process. Consultation is based on a conversation with give and take.	Will change to have up to 3 meetings. One at the beginning of the process and the others as needed. Other opportunities will be for review and comment.	Changed
2.a. Suggest change to invite consultation rather than to solicit comments.	Will do both. Language now reads "an initial meeting will be held to discuss the preservation plan and solicit ideas and comments.	Language changed to reflect both.
2.a. Many NHOs have listed a mailing address for the POC. HDOT should also send a letter via mail.	Agreed	Will send initial requests to participate in consultation via mail, unless requested otherwise.
2.b. Add "HDOT shall provide drafts of the Plan to the . . .	Agreed	Changed
2.e. Add, HDOT shall provide. . .	Agreed	Changed
B. Submittals to SHPD		
B.1, B.2, B.3. Note wording changes.	Agreed	Changed
Stipulation 28 - APE Agreement between SHPD and HDOT		
5. Add a whereas Clause or introduction as to what is the goal of this stip. What is the purpose or what is meant to be accommodated.	Will remove this item as not related to this MOA. Will continue to work on this with SHPD.	Item removed
Add Stipulation:		

August 13, 2020 - Email from Historic Hawaii Foundation		
HHF Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
6. Are there recommendations from the Relationship Building report, the ACHP comment and advice re: resolution of the Makani Hou objection, and /or the After Action Analysis that can/should be added to Amendment 2 as action items to continue to make progress on programmatic agreements?	This item will be removed as it is programmatic, rather than related to this project.	No change

October 15, 2020 - Email from NPS Ala Kahakai		
Ala Kahakai Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
Ala Kahakai concurs with the comments submitted by ACHP for the whole of Amendment 2	Noted	
Concurs with HHF's additional whereas clauses	Noted	
Whereas, changed from 2020 to 2019 (Line 31)		Changed
<p>Inserted:</p> <p>Whereas, FHWA 2015 MOA obligations were not met and proposed the drafting of Amendment One, executed on March 1, 2020, to extend the 2015 MOA by one year to provide time for FHWA to negotiate mitigation from construction damages to historic properties designed for preservation, address objections raised by Makani Hou, initiate an After-Action Analysis, and provide additional time for FHWA to implement mitigation measures memorialized in the 2015 MOA stipulations; and</p>	<p>Amendment 2 language will focus on moving forward from Amendment 1. Summary of consultation is included in Attachment 2. Attachment 1 includes a summary of mitigation measures that are incomplete from the 2015 MOA</p>	<p>More detail was added to the Consultation Summary (Attachment 2). Final After the Action Report will be attached to the Amendment.</p>
<p>Inserted:</p> <p>WHEREAS, on August 13, 2019, Makani Hou filed 12 objections with the FHWA and on May 29, 2020, parties agreed that the objections were not resolved and elevated all documentation relevant to the objections to the ACHP pursuant to Stipulation 18 of the 2015 MOA and on August 10, 2020, the ACHP responded with 27 specific recommendations to assist the FHWA in resolving Makani Hou's objections; and</p>	<p>The FHWA considered the advice provided by ACHP and provided a response on September 2, 2020. Also, a meeting was held with consulting parties on 9/24/2020. This is summarized in Attachment 2. The FHWA has provided a final decision on Makani Hou's objection per Stipulation 18. FHWA also determined stipulations 8, 10, 11, 12 and 15 are complete (see Attachment 1 to Amendment 2).</p>	<p>No Change</p>
<p>Comment:</p> <p>There needs to be a whereas statement that identifies why we are here in this stage of dealing with damages. Under FWHA, HDOT, and contractor previews historic properties were damaged outside of the MOA. The MOA was then breached by failure to report to within 72 hours, damages were not reported until months later.</p> <p>Inserted:</p> <p>Whereas, Amendment Two to the 2015 MOA to extend further the term of the 2015 MOA from the sunset date of Amendment One of March 1, 2021, to March 1, 2026 to provide FHWA more time to complete the above as well as to implement mitigation for construction damages to historic properties designated for preservation, and continue efforts to resolve objections elevated to the ACHP; and</p>	<p>Amendment 2 extends the terms of the 2015 MOA to complete the following:</p> <ol style="list-style-type: none"> 1) the UHH MOA 2) the National Park signage 3) the mitigation for the damaged trails. <p>Attachment 2 to Amendment 2 provides documentation on status of the stipulations. Attachment 1 details failure to report within 72 hours. The Makani Hou objection is separate from the Amendment 2.</p>	<p>No change</p>
<p>WHEREAS, a coalition of invited signatories and concurring parties to the 2015 MOA proposed multiple mitigation stipulations to assuage construction damages to historic properties identified as SIHP 50-10-27-00002, Mamalahoa Trail, a section of 4(f) property (Two Locations); SIHP 50-10-27-10714, Road to the Sea, a Section 4(f) property (two locations); and impacts to natural areas adjacent to historic properties due to breaches of interim protection buffers at SIHP 50-10-27-28783, Agricultural Complex, SIHP 50-10-27-28811, Pahoehoe Excavation; and SIHP 50-10-27-19947, Pahoehoe Marker; and</p>	<p>After the coalition had presented its proposal to FHWA and HDOT, leaders of both agencies noted that while the proposal was excellent in its broad scope to address trails in the Kekaha area, it was not commensurate with the damage to the two trails in question. However, recognizing the importance of the overall plan presented, FHWA did a presentation on TAP funding at the Feb 8, 2020 meeting. TAP funding would require county or NPS participation (HDOT not eligible) and must meet federal funding reporting requirements, but would also allow for the completion of the overall plan over time. Other funding options to complete this plan may also be available. FHWA and HDOT note that they requested that the consulting parties either prioritize their list, or come up with one, or possibly 2 items that were most important that it would be possible to fund under this mitigation. However, the consulting parties said they were unable to prioritize the list.</p>	<p>More detail was added to Consultation Summary (Attachment 2)</p>
<p>WHEREAS, FHWA rejected the coalition's proposal concluding that it was not commensurate with damages and FHWA made a counter proposal to restore 2, 500 feet of Mamalahoa Trail to include vegetation clearing, interpretive signage, identifying mauka-makai trail intersections, and developing a Preservation Development Plan while no mitigation was considered for breaches to the interim preservation buffers; and</p>	<p>FHWA determined there were no adverse effects to the sites where buffer breaches occurred since the sites were not impacted. Therefore, there is no mitigation under Section 106. HDOT submitted buffer breach report to SHPD. At the 2/8/2020 meeting, FHWA stated the coalition proposal was a great vision, but beyond commensurate for the adverse effect for the trails damaged during construction. FHWA presented the Transportation Alternatives Program (TAP) as a possible way to fund the larger CP coalition proposal.</p>	<p>More detail was added to Attachment 2 to memorialize consultation on the damaged sites.</p>

October 15, 2020 - Email from NPS Ala Kahakai		
Ala Kahakai Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
WHEREAS, Hawaii Revised Statutes Section 264-1(2)(b) declares that all trails, and other non-vehicular rights of way in the State declared to be public rights-of-ways by the Highways Act of 1892 are declared to be public trails under the jurisdiction of the State Board of Land and Natural Resources unless it was created by or dedicated to a particular county, in which case it shall be under the jurisdiction of that county; and	This is not relevant to the MOA. However, it is interesting to note that the section of trail within the HDOT ROW is a "1892 Trail" and thus technically already belongs to DLNR. Thus, eventual transfer of the trail to Na Ala Hele is part of a logical legal progression. Language re: Highways Act of 1892 is included in Stipulation 27.	Language re: Highways Act of 1892 is included in Stipulation 27.
Stipulation 5B - Native Hawaiian Cultural Outreach and Education		
AJC-In the existing MOA, part of the conflict was HDOT believing stipulations were completed when CPs did not. How can this be improved in this stip? Add timelines?	The lead Federal agency, in this case, FHWA, determines when a stipulation is complete.	Added: By March 31, 2021 HDOT and UHH will provide timelines.
MLK-Addition of specific dates (i.e. start of the MOU and duration as well as benchmarks for the process and the outcomes should be identified to provide a clear range of activity and deliverables.	UH needs some time to hire a program manager in order to fully implement this program. Deliverables are stated in MOU.	Added that UH will provide a timeline by March 31, 2021. MOU will be attached to the Amendment.
Change from HDOT to FHWA to read, "...the FHWA shall ensure that the MOU between HDOT and UHH..."	The MOU between HDOT and UHH is a contractual agreement between the two state agencies. FHWA is not a part of the contract but will continue working with HDOT to meet the terms of the stipulation. FHWA will continue annual reporting.	Changed language to indicate FHWA will do annual reporting.
Stipulation 20 - Duration		
MLK-I'd suggest more clarity on the process of the extensions - specifically state that the duration of Amendment 2 to the MOA is extended by a period of 5 years.	Language states that the MOA is extended for five year or until the stipulations are completed, whichever comes first. If all of the stipulations are completed sooner than five years, then the MOA shall be considered complete and closed.	No change
Stipulation 27 - Preserve and Restore 2,500 Feet of Mamalahoa Trail		
Change from "MAMALAHOA" TO "MĀMALAHOA" throughout.		Changed
A.1.b. Inserted phases noted in quotations to read: Archeological documentation of the existing condition of the Māmalahoa Trail (after vegetation clearing "shall follow Secretary of the Interior Standards for Historic Preservation and Hawaii Administrative Rules", Intersections with other historic trails, "associated features, and areas needing preservation treatment shall be identified and documented."	FHWA/HDOT will follow HAR 13-277, which has similar language. SOI required by HAR13-277.	No change
A.1.c. A plan to implement Preservation treatments in a defined section of the Mamalahoa Trail...	Preservation treatments is vague. If it is a term of art, would need a definition.	No change
A.1.d. Add "and maintenance strategy."	Maintenance is discussed in next paragraph	No change
A.1.e. Add "and protocols for the State Historic Preservation Division Inspections. (AJC concurs with HHF comments)	HAR 13-277 requires SHPD inspection.	No change
A.1.g. add "appropriate native" vegetation	Added dry-land native	Added language
A.1.h. Rename trail to "Road to the Sea" (Trail to Kohanaiki)	HDOT: Deona Naboa, a lineal descendant to the area, states that Trail to Kohanaiki is the appropriate name.	No Change
A.2. Consultation		Consultation added as 2.b.
A.2.a to 2.e AJC - Concurs with ACHP comments items	See comments to ACHP	Changed several parts of this section. See ACHP & OHA comments.
A.2.a MLK- Why is there no hard copy mail distribution?	Added hard copy mail distribution to invite consultation	Added hard copy mailout for invitation to consultation.
B.3 RG - Reword to, "Once HDOT receives the SHPD written concurrence..."		Changed several parts of this section. See ACHP & OHA comments.
B.3. RG-Please make item 3 its own subsection C		Changed
C. MLK--Was there discussion about the concept of transferring ownership of the trail - was this intended to be a private non-profit, another government entity, or transfer to an NHO or other community group.	As this trail falls under the 1892 Trails act, it already falls under Na Ala Hele jurisdiction, if they want it. Consulting parties have been part of conversation about transfer to Na Ala Hele.	No change
Stipulation 28 - APE Agreement between SHPD and HDOT		
Stipulation 28 AJC-This needs more description. If any of the large projects invoice FHWA funding, then FHWA should be a signatory. Consultation needs to be a part of the process. MLK - I agree - this stip as written is extremely vague and needs a much stronger level of detail and process identification.	This item will be removed as it is programmatic, rather than related to this project.	Stipulation was removed

October 19, 2020 - Email from NA ALA HELE		
Na Ala Hele Comments on Amendment 2	HDOT/FHWA Response	Outcome for Amendment 2
I did not submit separate comments, but I do want to express that I do support the comments/revisions submitted by Makani Hou. Their submission excellently balances the adverse effects to the historic trails due to the widening of the Queen Kaahumanu Highway, while at the same time providing a net-benefitting community assets that these trails truly deserve. I look forward to seeing these into fruition. Thanks to you and your team at DOT and all the consulting parties and partners.		

AMENDMENT TWO TO THE
MEMORANDUM OF AGREEMENT
Among the
ADVISORY COUNCIL ON HISTORIC PRESERVATION
FEDERAL HIGHWAY ADMINISTRATION
AND THE
HAWAII STATE HISTORIC PRESERVATION OFFICER

Regarding the projects in the vicinity of the
District of North Kona, Island of Hawaii, State of Hawaii
which are known as the Queen Ka'ahumanu Highway Intersection
Improvements for the Kaloko-Honokōhau National Historic Park
and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole

WHEREAS, the Memorandum of Agreement (MOA) regarding the projects known as Queen Ka'ahumanu Highway Intersection Improvements for the Kaloko-Honokōhau National Historic Park, and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole (collectively the "Projects") was executed on March 17, 2015; and

WHEREAS, several stipulations of the MOA were delayed or not completed (summarized in Attachment 1); and

WHEREAS, Amendment One to the MOA, was executed on March 5, 2020 to address changes to the Area of Potential Effect (APE) (Stipulation 2), Interpretive Signs (Stipulation 11), and document the adverse effect for trails ~~inadvertently~~ damaged during construction. It also extended the term of the MOA to March 17, 2021 to allow time to consult on mitigation for the adverse effect; and

WHEREAS, relevant history of consultation on the APE, Supplemental Archaeological Inventory Survey (SAIS), ~~Amendment One, Inadvertent~~ Damage to Sites and Buffer Breaches, Amendment One and Amendment Two is summarized in Attachment 2; and

WHEREAS, Hawaii Department of Transportation (HDOT) needs more time to implement the cultural programs at the University of Hawaii at Hilo (UHH). In addition, Makani Hou O Kaloko-Honokōhau (Makani Hou) requested to be consulted on implementation of the cultural programs and met with the UHH on December 3, ~~2020~~2019 and November 6, 2020; and

WHEREAS, the FHWA and HDOT submitted an after-action analysis scope and schedule as required by Stipulation 26 on May 7, 2020 and FHWA submitted the final after-action analysis report to consulting parties on [DATE TO BE FILLED IN AFTER SUBMITTAL] (Attachment 3).

NOW THEREFORE, in furtherance of the above recitals, the Federal Highway Administration (FHWA), the State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP), the National Park Service, and HDOT agree that the Projects shall be implemented in accordance with the following amended stipulations in order to take into account the Project's effect on historic properties:

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1. **Stipulation 5.B** of the MOA shall be replaced with the following text:

NATIVE HAWAIIAN CULTURAL OUTREACH AND EDUCATION. The HDOT and the University of Hawaii at Hilo (UHH) have entered into a Memorandum of Understanding (MOU) to provide cultural programs and education to support Native Hawaiian Studies (See Attachment 4, UHH MOU). The FHWA and HDOT shall ensure that the MOU between HDOT and UHH to provide cultural programs is fully implemented over the duration of the MOU. The MOU includes the Kohala Center, as requested by Makani Hou, to help facilitate the contract and to provide a mechanism to better include local representation. UHH will provide annual reports documenting the activities of the past calendar year, which HDOT will be made the reports available to all consulting parties. If any activities were not accomplished, UHH will so note, including reasons goals were not met, and provide corrective action in the annual in the report. HDOT and the CPs shall consult with UH on alternative timeframes and means to meet the goals of this stipulation, if the activities could not be accomplished. FHWA will continue to report annual progress of Stipulation 5-B as required in Stipulation 19- MONITORING AND REPORTING of the 2015 MOA. FHWA will include the progress of stipulation 5 B through the annual reporting, Stipulation 19 in 2015 MOA.

By March 31, 2021, the HDOT and the UHH shall provide a timeline for the delivery of the first phase year of the five project areas of the MOU. The timeline will be distributed to consulting parties. Future timelines will be developed by UHH and HDOT annually to accommodate any need changes to tasks or schedule and will be updated as necessary. (See Attachment 4, UHH MOU).
Add a timeline (add blurb from Julian)

2. **Stipulation 18** of the MOA shall be replaced with the following text:

DISPUTE RESOLUTION. Should any signatory, invited signatory, or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the objecting party shall submit its objection in writing to both the Hawaii Division Administrator and the Federal Preservation Officer for FHWA, and also notify all Consulting Parties. Both officials of FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The FHWA will then proceed according to its final decision.

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B. Make a final decision on the dispute and proceed accordingly if the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period. Prior to reaching such a final decision, the FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provides them and the ACHP with a copy of such written response.

C. Be responsible to carry out all other actions, subject to the terms of the MOA that are not the subject of the dispute.

3. **Stipulation 20** of the MOA shall be replaced with the following text:

DURATION. The original term of the MOA was for five (5) years from the execution of the MOA with the original term ending March 17, 2020. Amendment 1 extended by a period of one (1) year from the March 17, 2020 expiration of the MOA to March 17, 2021. The MOA duration is extended by this Amendment 2 for a period of five (5) years from the March 17, 2021 expiration to March 17, 2026, or upon completion of the stipulations, whichever comes first.

4. **Stipulation 27** shall be added to the MOA:

~~A. PRESERVE AND RESTORE 2,500 FEET OF THE MĀAMALAHOA TRAIL (SIHP #50-10-27-00002). HDOT shall perform vegetation clearing and/or restoration for the portion of the Māmalahoa Trail within its right of way (approximately 2,500 feet) in the area from Kealahou Parkway northsouth, per the State requirements for a Preservation Plan (PP) outlined below.~~
~~HDOT shall develop a PP that meets the requirements of HAR 13-277, (rules Governing Archeological Site Preservation and Development) for a 2,500-foot section of the Māmalahoa Trail located within the HDOT right of way on the south side of Kealahou Parkway (See map).~~

1. IDENTIFICATION

HDOT shall perform vegetation clearing and preservation activities meeting the Secretary of Interior's guidelines for preservation for a 2,500 foot portion of the Māmalahoa Trail (SIHP #50-10-27-00002) within its right of way in the area from Kealahou Parkway south, per the State requirements for a Preservation Plan (PP) outlined below.

2. BUFFER ZONES

HDOT will establish 10-foot buffer zones around the trail. These buffer zones will be depicted on a map using GIS points to locate the buffer. The map shall be of sufficient scale that the trail and buffers can be clearly seen. An archaeologist will draw the buffer along with the trail. Interpretive signs may be placed in the buffer zones, but no additional work or activities will take place in the buffers area without permission from HDOT. Should anyone request to place a permanent marker in the buffer, HDOT will consult with CPs on the appropriateness of the request. HDOT

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will make one contact by e-mail and a follow up contact by phone if there is no e-mail response. At the end of this MOA, HDOT will use its discretion on whether or not to contact CPs regarding requests to place permanent markers in the buffer.

3. SHORT-TERM PROTECTION MEASURES

There are no short-term protection measures for this project.

4. CONSULTATION PROCESS

HDOT shall consult with Native Hawaiian Organizations (NHOs) and Consulting Parties (CP) to this amendment during the development of the PP as follows:

- a. To solicit participants to consult on the development of the PP, HDOT shall attempt to contact NHOs and CPs once via regular mail and twice via email. If no response is received, HDOT will follow up once via phone if a phone number is available. HDOT encourages consulting parties to provide HDOT with information on additional parties to consult.
- b. A timeline for the development of the PP and restoration of the trail will be developed as a part of the consultation. HDOT commits to hiring a consultant, within one year of execution of this Amendment, sooner if possible.
- c. An initial meeting will be held to discuss the preservation plan and solicit ideas and comments. Up to two additional meetings will be held as necessary. Meetings may be held via video conferencing if there are budget or travel restrictions. HDOT shall provide drafts of the plan to CPs and NHOs at the 30%, 60%, and 90% stage. These stages need not correspond to the meetings.
- d. HDOT shall provide electronic copies of the drafts for review to the CPs and NHOs who will have 30 days to provide comments to HDOT if no meeting is held, and 15 days to provide any additional comments to those made in a meeting, if a consultation meeting is held.
- e. Comments made during meetings and any written comments received from CPs and NHOs, will be considered when finalizing the PP.
- f. The final PP will be provided electronically to the NHOs and CPs, unless a paper copy is requested
- g. The final PP shall include a list of individuals and organizations consulted and shall summarize their input.

5. LONG-TERM PRESERVATION MEASURES

HDOT shall consult with Native Hawaiian Organizations (NHOs) and Consulting Parties (CP) to this amendment during the development of the PP as follows:

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~~To solicit participants to consult on the development of the PP, HDOT shall attempt to contact NHOs and CPs once via regular mail and twice via email. If no response is received, HDOT will follow up once via phone if a phone number is available. HDOT encourages consulting parties to provide HDOT with information on additional parties to consult.~~

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~~A timeline for the development of the PP and restoration of the trail will be developed as a part of the consultation. HDOT commits to hiring a consultant, within one year of execution of this Amendment, sooner if possible.~~

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~~An initial meeting will be held to discuss the preservation plan and solicit ideas and comments. Up to two additional meetings will be held as necessary. Meetings may be held via video conferencing if there are budget or travel restrictions. HDOT shall provide drafts of the plan to CPs and NHOs at the 30%, 60%, and 90% stage. These stages need not correspond to the meetings.~~

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~~HDOT shall provide electronic copies of the drafts for review to the CPs and NHOs who will have 30 days to provide comments to HDOT if no meeting is held, and 15 days to provide any additional comments to those made in a meeting, if a consultation meeting is held.~~

~~Comments made during meetings and any written comments received from CPs and NHOs will be considered when finalizing the PP.~~

~~The final PP will be provided electronically to the NHOs and CPs, unless a paper copy is requested~~

~~The final PP shall include a list of individuals and organizations consulted and shall summarize their input.~~

LONG TERM PRESERVATION MEASURES

~~HDOT will rehabilitate, restore or reconstruct (as appropriate) the 2,500-foot segment of the Māmalahoa trail identified in the map (Attachment 5(MAP)). The Preservation Plan (PP) will include the following:~~

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~~1. Preservation and Development Plan (PDP)~~

~~a. A synthesis of available documentation on the construction, uses, maintenance, vegetation or stories of the Māmalahoa Trail in the Kealakehe and Honokōhau ahupua'a. The SHPD library, the State Archives and the Hawaiian collection at the Hamilton Library will be searched (if accessible) for documentation. Oral history collections talking about these two ahupua'a should also be accessed, if available. The synthesis need not capture the entire Māmalahoa Trail.~~

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~~a. Archeological documentation, including drawings of the existing condition of the Māmalahoa Trail (after vegetation clearing) and identification of~~

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g. A plan for permanent markers to identify and interpret the trail such as trail markers, signs or dry-land native vegetation. Up to three markers may be made.

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h. The PDP will include revised Preservation Plans for the Māmalahoa Trail (SIHP #50-10-27-00002) near the park entrance and Trail to Kohanaiki (SIHP #50-10-27-10714), and will document their current condition within the APE.

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i. The PP will include a report on the buffer breaches and note that the buffers for SIHP #'s 28811, 28783, and 19947 will remain the same.

2. Consultation for the Preservation Development Plan (PDP)

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~~HDOT shall consult with Native Hawaiian Organizations (NHOs) and Consulting Parties (CP) to this amendment during the development of the PDP as follows:~~

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~~To solicit comments participants to consult on the development on of the PDP, HDOT shall attempt to contact NHOs and CPs once via regular mail and twice via email. If no response is received, HDOT will follow up once via phone if a phone number is available. HDOT encourages consulting parties to provide HDOT with information on additional parties to consult.~~

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a. ~~A timeline for the development of the PP and restoration of the trail will be developed as a part of the consultation. HDOT commits to hiring a consultant, within one year of execution of this Amendment, sooner if possible.~~

~~An initial meeting will be held to discuss the preservation plan and solicit ideas and comments. Up to two additional meetings will be held as necessary. Meetings may be held via video conferencing if the corona virus or budget there are t restricts travel budget or travel restrictions~~

b. ~~HDOT shall provide drafts of the plan to CPs and NHOs will be provided opportunities to review and comment on the drafts of the PDP at the 30%, 60%, and 90% stage. These stages may or may not correspond to the meetings times.~~

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c. ~~HDOT shall provide electronic copies of the drafts for review to the CPs and NHOs will be provided with electronic copies of the drafts for review and who will have 15-30 days to provide comments to HDOT if no meeting is held, and 15 days to provide any additional comments to those made in a meeting, if a consultation meeting is held.~~

d. ~~If Comments made during meetings and any written comments are received from CPs and NHOs, HDOT shall will be considered the comments in when finalizing the PDP.~~

e. ~~The final PDP will be provided electronically to the NHOs and CPs, unless a paper copy is requested.~~

B. Preservation ~~and Development~~ Plan (PDP) Submittals to SHPD

1. HDOT shall submit the ~~p~~Pre-~~f~~Final PDP to SHPD for their review and comment. SHPD shall have 30 days to provide comment unless they request more time in writing, including e-mail.
2. HDOT will address all SHPD comments received within 30 days and submit a ~~f~~Final PDP for SHPD's ~~approval~~written concurrence. SHPD shall respond within 30 days unless it requests additional time in writing. If SHPD does not respond, the HDOT may assume SHPD's concurrence

C. ~~C.~~ Once the PDP is approved by HDOT receives SHPD's written concurrence from SHPD, HDOT will implement the plan to ~~restore~~ preserve the trail.

~~C.~~ D. HDOT may transfer ownership of the trail to another entity to better manage the long-term maintenance of the trail. The section of the Māmalahoa Trail discussed above is considered a public Trail under the Highways Act of 1892. As such, it is already under the jurisdiction of the State Board of Land and Natural Resources, Na Ala Hele Program (HRS, 264-1 (2) (b)). At such time when it is feasible for both parties, HDOT shall formally transfer the trail, including maintenance, parking, any structures erected to interpret the trail and any documentation related to the DLNR Na Ala Hele Program.

5. ~~Stipulation 28~~ shall be added to the MOA (I am suggesting we take this out and work through AAA recommendations):

APE AGREEMENT BETWEEN SHPD AND HDOT. Within 2 years of the execution of Amendment 2, HDOT shall develop an APE Agreement with SHPD to address identification of the APE for large projects. This agreement can be part of a programmatic agreement between the two agencies.

55. This Amendment may be executed in counterparts. Each signature page shall be incorporated into Amendment Two and considered a part of this Amendment.

List of Attachments:

1. MOA Stipulation Status
2. History of Consultation Status
3. After-Action Analysis Report
4. UHH MOU
5. Map of the 2,500 feet of trail.

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AMENDMENT TWO TO THE
MEMORANDUM OF AGREEMENT
Among the
ADVISORY COUNCIL ON HISTORIC PRESERVATION
FEDERAL HIGHWAY ADMINISTRATION
AND THE
HAWAII STATE HISTORIC PRESERVATION OFFICER
Regarding the projects in the vicinity of the
District of North Kona, Island of Hawaii, State of Hawaii
which are known as the Queen Ka'ahumanu Highway Intersection
Improvements for the Kaloko-Honokōhau National Historic Park
and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole

SIGNATORY:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____

Date: _____

John M. Fowler, Executive Director

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SIGNATORY:

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____
Ralph J. Rizzo, Division Administrator

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SIGNATORY:

STATE HISTORIC PRESERVATION OFFICER (State of Hawai'i)

By: _____ Date: _____
Suzanne D. Case, State of Hawai'i Historic Preservation Officer

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INVITED SIGNATORY:

NATIONAL PARK SERVICE

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By: _____ Date: _____
Superintendent, Kaloko-Honokōhau National Historical Park

By: _____ Date: _____
Aric Arakaki, Superintendent, Ala Kahakai National Historical Trail

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INVITED SIGNATORY:

STATE OF HAWAI'I DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Jade T. Butay, Director of Transportation

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CONCURRING PARTY:

HISTORIC HAWAI'I FOUNDATION

By: _____ Date: _____

Kiersten Faulkner, Executive Director

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Improvements for the Kaloko-Honokōhau National Historic Park
and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole

CONCURRING PARTY:

OFFICE OF HAWAIIAN AFFAIRS

By:

Date:

Sylvia Hussey, Ka Pouhana Kūkawā / Chief Executive Officer

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and the Queen Ka‘ahumanu Highway Widening, Kailua to Ke‘āhole

CONCURRING PARTY:

MAKANI HOU O KALOKO-HONOKŌHAU

By: _____ Date: _____
Fred Cachola, President

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1 AMENDMENT TWO TO THE
2 MEMORANDUM OF AGREEMENT

3 Among the
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5 FEDERAL HIGHWAY ADMINISTRATION
6 AND THE
7 HAWAII STATE HISTORIC PRESERVATION OFFICER

8 Regarding the projects in the vicinity of the
9 District of North Kona, Island of Hawaii, State of Hawaii
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11 Improvements for the Kaloko-Honokōhau National Historic Park
12 and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole
13

14 WHEREAS, the Memorandum of Agreement (MOA) regarding the projects known as Queen
15 Ka'ahumanu Highway Intersection Improvements for the Kaloko-Honokōhau National Historic
16 Park, and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole (collectively the
17 "Projects") was executed on March 17, 2015; and

18 WHEREAS, several stipulations of the MOA were delayed or not completed (summarized in
19 Attachment 1); and

20 WHEREAS, Amendment One to the MOA, was executed on March 5, 2020 to address changes
21 to the Area of Potential Effect (APE) (Stipulation 2), Interpretive Signs (Stipulation 11), and
22 document the adverse effect for trails damaged during construction. It also extended the term of
23 the MOA to March 17, 2021 to allow time to consult on mitigation for the adverse effect; and

24 WHEREAS, relevant history of consultation on the APE, Supplemental Archaeological
25 Inventory Survey (SAIS), Damage to Sites and Buffer Breaches, Amendment One and
26 Amendment Two is summarized in Attachment 2; and

27 WHEREAS, Hawaii Department of Transportation (HDOT) needs more time to implement the
28 cultural programs at the University of Hawaii at Hilo (UHH). In addition, Makani Hou O
29 Kaloko-Honokōhau (Makani Hou) requested to be consulted on implementation of the cultural
30 programs and met with the UHH on December 3, 2019 and November 6, 2020; and

31 WHEREAS, the FHWA and HDOT submitted an after-action analysis scope and schedule as
32 required by Stipulation 26 on May 7, 2020 and FHWA submitted the final after-action analysis
33 report to consulting parties on [DATE TO BE FILLED IN AFTER SUBMITTAL] (Attachment
34 3)
35

36 NOW THEREFORE, in furtherance of the above recitals, the Federal Highway Administration
37 (FHWA), the State Historic Preservation Officer (SHPO), the Advisory Council on Historic
38 Preservation (ACHP), the National Park Service, and HDOT agree that the Projects shall be
39 implemented in accordance with the following amended stipulations in order to take into account
40 the Project's effect on historic properties:
41

42 1. **Stipulation 5.B** of the MOA shall be replaced with the following text:

NATIVE HAWAIIAN CULTURAL OUTREACH AND EDUCATION. The HDOT and the University of Hawaii at Hilo (UHH) have entered into a Memorandum of Understanding (MOU) to provide cultural programs and education to support Native Hawaiian Studies (See Attachment 4, UHH MOU). The FHWA and HDOT shall ensure that the MOU between HDOT and UHH to provide cultural programs is fully implemented over the duration of the MOU. The MOU includes the Kohala Center, as requested by Makani Hou, to help facilitate the contract and to provide a mechanism to better include local representation. UHH will provide annual reports documenting the activities of the past calendar year. HDOT will make the reports available to all consulting parties. If any activities were not accomplished, UHH will so note, including reasons goals were not met. HDOT and the CPs shall consult with UH on alternative timeframes and means to meet the goals of this stipulation, if the activities could not be accomplished. FHWA will continue to report annual progress of Stipulation 5.B as required in Stipulation 19- MONITORING AND REPORTING of the 2015 MOA. By March 31, 2021, the HDOT and the UHH shall provide a timeline for the delivery of the first year of the five project areas of the MOU. The timeline will be distributed to consulting parties. Future timelines will be developed by UHH and HDOT annually to accommodate any need changes to tasks or schedule.

2. **Stipulation 18** of the MOA shall be replaced with the following text:

DISPUTE RESOLUTION. Should any signatory, invited signatory, or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the objecting party shall submit its objection in writing to both the Hawaii Division Administrator and the Federal Preservation Officer for FHWA, and also notify all Consulting Parties. Both officials of FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The FHWA will then proceed according to its final decision.
- B. Make a final decision on the dispute and proceed accordingly if the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period. Prior to reaching such a final decision, the FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provides them and the ACHP with a copy of such written response.
- C. Be responsible to carry out all other actions, subject to the terms of the MOA that are not the subject of the dispute.

85 3. **Stipulation 20** of the MOA shall be replaced with the following text:

86 DURATION. The original term of the MOA was for five (5) years from the execution of the
87 MOA with the original term ending March 17, 2020. Amendment 1 extended by a period of
88 one (1) year from the March 17, 2020 expiration of the MOA to March 17, 2021. The MOA
89 duration is extended by this Amendment 2 for a period of five (5) years from the March 17,
90 2021 expiration to March 17, 2026, or upon completion of the stipulations, whichever comes
91 first.

92 4. **Stipulation 27** shall be added to the MOA:

93 A. PRESERVE 2,500 FEET OF THE MĀMALAHOA TRAIL (SIHP #50-10-27-00002).

94 1. IDENTIFICATION

95 HDOT shall perform vegetation clearing and preservation activities meeting the
96 Secretary of Interior's guidelines for preservation for a 2,500 foot portion of the
97 Māmalahoa Trail (SIHP #50-10-27-00002) within its right of way in the area from
98 Kealakehe Parkway south, per the State requirements for a Preservation Plan (PP)
99 outlined below.

100
101 2. BUFFER ZONES

102 HDOT will establish 10-foot buffer zones around the trail. These buffer zones will be
103 depicted on a map using GIS points to locate the buffer. The map shall be of
104 sufficient scale that the trail and buffers can be clearly seen. An archaeologist will
105 draw the buffer along with the trail. Interpretive signs may be placed in the buffer
106 zones, but no additional work or activities will take place in the buffer area without
107 permission from HDOT. Should anyone request to place a permanent marker in the
108 buffer, HDOT will consult with CPs on the appropriateness of the request. HDOT
109 will make one contact by e-mail and a follow up contact by phone if there is no e-
110 mail response. At the end of this MOA, HDOT will use its discretion on whether or
111 not to contact CPs regarding requests to place permanent markers in the buffer.

112
113 3. SHORT-TERM PROTECTION MEASURES

114 There are no short-term protection measures for this project.

115
116 4. CONSULTATION PROCESS

117 HDOT shall consult with Native Hawaiian Organizations (NHOs) and Consulting
118 Parties (CP) to this amendment during the development of the PP as follows:

- 119 a. To solicit participants to consult on the development of the PP, HDOT shall
120 attempt to contact NHOs and CPs once via regular mail and twice via email. If
121 no response is received, HDOT will follow up once via phone if a phone
122 number is available. HDOT encourages consulting parties to provide HDOT
123 with information on additional parties to consult.

- 124 b. A timeline for the development of the PP and restoration of the trail will be
125 developed as a part of the consultation. HDOT commits to hiring a
126 consultant, within one year of execution of this Amendment, sooner if
127 possible.
- 128 c. An initial meeting will be held to discuss the preservation plan and solicit
129 ideas and comments. Up to two additional meetings will be held as necessary.
130 Meetings may be held via video conferencing if there are budget or travel
131 restrictions. HDOT shall provide drafts of the plan to CPs and NHOs at the
132 30%, 60%, and 90% stage. These stages need not correspond to the meetings.
- 133 d. HDOT shall provide electronic copies of the drafts for review to the CPs and
134 NHOs who will have 30 days to provide comments to HDOT if no meeting is
135 held, and 15 days to provide any additional comments to those made in a
136 meeting, if a consultation meeting is held.
- 137 e. Comments made during meetings and any written comments received from
138 CPs and NHOs, will be considered when finalizing the PP.
- 139 f. The final PP will be provided electronically to the NHOs and CPs, unless a
140 paper copy is requested
- 141 g. The final PP shall include a list of individuals and organizations consulted and
142 shall summarize their input.

143 5. LONG-TERM PRESERVATION MEASURES

144 HDOT will rehabilitate, restore or reconstruct (as appropriate) the 2,500-foot
145 segment of the Māmalahoa trail identified in the map (Attachment 5). The
146 Preservation Plan (PP) will include the following:

- 147 a. A synthesis of available documentation on the construction, uses,
148 maintenance, vegetation or stories of the Māmalahoa Trail in the Kealakehe
149 and Honokōhau ahupua'a. The SHPD library, the State Archives and the
150 Hawaiian collection at the Hamilton Library will be searched (if accessible)
151 for documentation. Oral history collections talking about these two ahupua'a
152 should also be accessed, if available. The synthesis need not capture the entire
153 Māmalahoa Trail.
- 154 b. Archeological documentation, including drawings of the existing condition of
155 the Māmalahoa Trail (after vegetation clearing) and identification of
156 intersections with other historic trails within the 2,500 foot section, as well as
157 the small piece of trail on the other side of Kealakehe Parkway. Archaeologist
158 will GPS the location of the trail(s) using standard archaeological practices.
- 159 c. A vegetation clearing plan for the 2,500 section of trail.

- 160 d. A maintenance plan for this section of the trail, which will include access,
161 litter control, future impacts and site stability and periodic monitoring of the
162 site for impacts to historic integrity and site significance, and protocols for the
163 State Historic Preservation Division (SHPD) inspections.
- 164 e. HDOT shall develop a gravel parking lot with room for ten cars and one bus
165 in its right of way. The parking lot shall have a paved drive-way to exit and
166 re-enter the Queen Ka'ahumanu Highway.
- 167 f. Interpretation of the site. This will include recognition of the connection of
168 the trail to the North side of Kealakehe Parkway and mauka-makai trails
169 within this 2,500-segment. This could be done through signage or other
170 means. Consulting parties will be invited to consult on the interpretation of the
171 site. Interpretive signs, brochures, or other materials will follow HAR 13-
172 277-7, including getting SHPD approval for any interpretive material.
- 173 g. A plan for permanent markers to identify and interpret the trail such as trail
174 markers, signs or dry-land native vegetation. Up to three markers may be
175 made.
- 176 h. The PP will include revised Preservation Plans for the Māmalahoa Trail
177 (SIHP #50-10-27-00002) near the park entrance and Trail to Kohanaiki
178 (SIHP #50-10-27-10714), and will document their current condition within the
179 APE.
- 180 i. The PP will include a report on the buffer breaches and note that the buffers
181 for SIHP #'s 28811, 28783, and 19947 will remain the same.

182 B. Preservation Plan (PP) Submittals to SHPD

- 183 1. HDOT shall submit the pre-final PP to SHPD for their review and comment.
184 SHPD shall have 30 days to provide comment unless they request more time in
185 writing, including e-mail.
- 186 2. HDOT will address all SHPD comments received within 30 days and submit a
187 final PP for SHPD's written concurrence. SHPD shall respond within 30 days
188 unless it requests additional time in writing. If SHPD does not respond, the
189 HDOT may assume SHPD's concurrence

190 C. Once HDOT receives SHPD's written concurrence HDOT will implement the plan to
191 preserve the trail.

192 D. The section of the Māmalahoa Trail discussed above is considered a public Trail
193 under the Highways Act of 1892. As such, it is already under the jurisdiction of the State
194 Board of Land and Natural Resources, Na Ala Hele Program (HRS, 264-1 (2) (b). At
195 such time when it is feasible for both parties, HDOT shall formally transfer the trail,

196 including maintenance, parking, any structures erected to interpret the trail and any
197 documentation related to the DLNR Na Ala Hele Program.

198 5. This Amendment may be executed in counterparts. Each signature page shall be incorporated
199 into Amendment Two and considered a part of this Amendment.
200

201 List of Attachments:

- 202 1. MOA Stipulation Status
- 203 2. History of Consultation Status
- 204 3. After-Action Analysis Report
- 205 4. UHH MOU
- 206 5. Map of the 2,500 feet of trail.
- 207

DRAFT

208 AMENDMENT TWO TO THE
209 MEMORANDUM OF AGREEMENT

210 Among the
211 ADVISORY COUNCIL ON HISTORIC PRESERVATION
212 FEDERAL HIGHWAY ADMINISTRATION
213 AND THE
214 HAWAII STATE HISTORIC PRESERVATION OFFICER

215 Regarding the projects in the vicinity of the
216 District of North Kona, Island of Hawaii, State of Hawaii
217 which are known as the Queen Ka'ahumanu Highway Intersection
218 Improvements for the Kaloko-Honokōhau National Historic Park
219 and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole
220

221
222 SIGNATORY:

223
224 ADVISORY COUNCIL ON HISTORIC PRESERVATION
225

226
227
228 By: _____

Date:

229 _____
230 John M. Fowler, Executive Director
231

232 AMENDMENT TWO TO THE
233 MEMORANDUM OF AGREEMENT

234 Among the
235 ADVISORY COUNCIL ON HISTORIC PRESERVATION
236 FEDERAL HIGHWAY ADMINISTRATION

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242 Improvements for the Kaloko-Honokōhau National Historic Park
243 and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole
244

245
246 SIGNATORY:

247
248 U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION
249

250
251
252 By: _____ Date: _____

253 Ralph J. Rizzo, Division Administrator
254

255 AMENDMENT TWO TO THE
256 MEMORANDUM OF AGREEMENT

257 Among the
258 ADVISORY COUNCIL ON HISTORIC PRESERVATION
259 FEDERAL HIGHWAY ADMINISTRATION

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262 Regarding the projects in the vicinity of the
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265 Improvements for the Kaloko-Honokōhau National Historic Park
266 and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole

267
268
269 SIGNATORY:

270
271 STATE HISTORIC PRESERVATION OFFICER (State of Hawai'i)

272
273
274
275 By: _____ Date: _____

276 Suzanne D. Case, State of Hawai'i Historic Preservation Officer
277
278

AMENDMENT TWO TO THE
MEMORANDUM OF AGREEMENT

Among the
ADVISORY COUNCIL ON HISTORIC PRESERVATION
FEDERAL HIGHWAY ADMINISTRATION
AND THE

HAWAII STATE HISTORIC PRESERVATION OFFICER

Regarding the projects in the vicinity of the
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which are known as the Queen Ka'ahumanu Highway Intersection
Improvements for the Kaloko-Honokōhau National Historic Park
and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole

INVITED SIGNATORY:

NATIONAL PARK SERVICE

DRAFT

By: _____ Date: _____

Superintendent, Kaloko-Honokōhau National Historical Park

By: _____ Date: _____

Aric Arakaki, Superintendent, Ala Kahakai National Historical Trail

AMENDMENT TWO TO THE
MEMORANDUM OF AGREEMENT

Among the
ADVISORY COUNCIL ON HISTORIC PRESERVATION
FEDERAL HIGHWAY ADMINISTRATION
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Improvements for the Kaloko-Honokōhau National Historic Park
and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole

INVITED SIGNATORY:

STATE OF HAWAI'I DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____

Jade T. Butay, Director of Transportation

AMENDMENT TWO TO THE
MEMORANDUM OF AGREEMENT

Among the
ADVISORY COUNCIL ON HISTORIC PRESERVATION
FEDERAL HIGHWAY ADMINISTRATION
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Improvements for the Kaloko-Honokōhau National Historic Park
and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole

CONCURRING PARTY:

HISTORIC HAWAI'I FOUNDATION

DRAFT

By: _____ Date: _____

Kiersten Faulkner, Executive Director

AMENDMENT TWO TO THE
MEMORANDUM OF AGREEMENT

Among the
ADVISORY COUNCIL ON HISTORIC PRESERVATION
FEDERAL HIGHWAY ADMINISTRATION
AND THE

HAWAII STATE HISTORIC PRESERVATION OFFICER

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Improvements for the Kaloko-Honokōhau National Historic Park
and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole

CONCURRING PARTY:

OFFICE OF HAWAIIAN AFFAIRS

DRAFT

By: _____ Date: _____

Sylvia Hussey, Ka Pouhana Kūkawā / Chief Executive Officer

AMENDMENT TWO TO THE
MEMORANDUM OF AGREEMENT

Among the
ADVISORY COUNCIL ON HISTORIC PRESERVATION
FEDERAL HIGHWAY ADMINISTRATION
AND THE
HAWAII STATE HISTORIC PRESERVATION OFFICER

Regarding the projects in the vicinity of the
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which are known as the Queen Ka'ahumanu Highway Intersection
Improvements for the Kaloko-Honokōhau National Historic Park
and the Queen Ka'ahumanu Highway Widening, Kailua to Ke'āhole

CONCURRING PARTY:

MAKANI HOU O KALOKO-HONOKŌHAU

By: _____ Date: _____

Fred Cachola, President

NHO Consultation Scope and Schedule

Task	Responsible Party	Hours	Time	Year
Identify Funding	Ken Tatsuguchi Hwy-P	10	Nov-Dec 30	2020
Procure a contractor to assist with consultation, logistics, note taking, compiling the admin record	Will depend on where funding is coming from.	many	Jan 2-June 30, 2021	2021
Negotiate final scope and price		10	June 15-August 15	2021
Develop Work Plan	Consultant	10	June 15-August 15	2021
Monthly status meetings with HDOT (include writing meeting notes. (Estimate 2 years worth of meetings)	Consultant	72	Sept 1 and thereafter	2021
Prepare for consultation	Consultant			2021
Review other NHO consultation documents		4	Sept1-30	2021
Review HDOT Relationship Building Reports		2	Sept1-30	2021
Draft straw-man document to share with consulting parties. Included review and editing with team.		30	Sept1-30	2021
Develop proposed consultation list		12	Sept1-30	2021
Prepare consultation infrastructure (assume teleconferencing)				
Ensure reliable program is available (i.e. TEAMS)	No or minimal cost		Sept	2021
Phone conferencing, follow up calls		30	Sept 1 and thereafter	2021
Web page easily accessible to consulting parties where documents and comments are stored and accessed. Ensure logic for storage makes sense	Consultant	30	sept 20-Nov 20	2021
Prepare initial invite letters for NHOs (includes formatting for mail merge)	Consultant	24	30-Nov	2021
Meeting 1				

NHO Consultation Scope and Schedule

Task	Responsible Party	Hours	Time	Year
Identify Funding	Ken Tatsuguchi Hwy-P	10	Nov-Dec 30	2020
Hold initial meeting via teleconference (includes prep time and assuming moderator and 4 people to manage different aspects of technology)	Consultant	30	15-Dec	2021
Allow 15 days after the meeting for additional comments.			30-Dec	
Arrange meetings with HDOT staff re: 106 protocols.	Consultant	40	30-Jan	2022
Revise and edit Straw man version to draft 2	Consultant	30	29-Feb	2022
Post to website and allow 30 days for comments	Consultant		30-Mar	2022
Meeting 2 Draft 2				
Prep for meeting 2 (if travel not allowed, this will be a teleconference)	consultant	10	30-Apr	2022
Hold 2nd round of meetings, In person and teleconference. 5 meetings x 4 hours plus 4 hours travel time. (If travel not allowed, this will be a teleconference)	consultant/DOT	40		
Travel Consultant (4 people)	consultant			
Travel DOT (4 people)				
vehicle (2)				
per diem				
hotel (?)			15-May	2020
Allow 15 days after the meeting for additional comments.	consultant		30-May	2022
revise and edit draft 2 to create draft 3	consultant	20	30-Jun	2022
Post draft 3 to website, allow 30 days for comments	consultant	5	30-Jul	2022

NHO Consultation Scope and Schedule

Task	Responsible Party	Hours	Time	Year
Identify Funding	Ken Tatsuguchi Hwy-P	10	Nov-Dec 30	2020
Collect any comments and revise as appropriate	Consultant	10	30-Aug	2022
Meeting 3 Draft 3				
prep for meeting 3	consultant	10	30-Sep	
Meeting 3 to discuss Draft 3	consultant	30	30-Sep	2022
Allow 15 days after the meeting for additional comments.			15-Aug	
Revise and Edit Draft 3 to final	consultant	20	15-Sep	2022
One additional meeting (if necessary) (Estimate includes prep time and revisions)	consultant	40	15-Nov	2022
Post Final to Website	consultant	10	30-Nov	2022
Create training manual and video for HDOT on how to implement NHO consultation protocols.	consultant	20	30-Jan	2023
1 in-person training (?) Can be live on-line.	consultant	20	30-Jan	2023
Contingency Meeting	Consultant	40		
It Support		24		
Compile Admin record		100	throughout	2023
TOTAL		723		

After-Action Analysis: Queen Kaʻahumanu Highway Widening, Phase 2



U.S. Department of Transportation
Federal Highway Administration

Project Purpose

This After-Action Analysis seeks to:

- Assess the compliance with the National Historic Preservation Act Section 106 and Hawaii Revised Statutes Chapter 6E through design and construction by identifying how the project inadequately protected historic properties adjacent to this project; and
- Identify specific steps, procedures, processes, and practices that should be implemented or improved that will ensure protection of historic properties during construction of future projects. This includes establishing methods to monitor and adjust the procedures, processes, and practices toward improving stewardship of historic properties.

Project Leads and Support Team

- FHWA Office of Project Development and Environmental Review (lead for After-Action Analysis)
- Advisory Council on Historic Preservation (oversight)
- FHWA Resource Center (day-to-day project management)
- U.S. Department of Transportation Volpe Center (project support)
- Office of Hawaiian Affairs (cultural liaison)

Project Schedule - Updated

Activity	Anticipated Timeframe
Kick-off of After-Action Analysis	June 2020
Data Collection/Document Review	June 2020-Present
Preparation and Coordination of Interviews	August 2020 Aug.-Sept. 2020
Interviews	August-September 2020 Oct.-Nov. 2020
Development of After-Action Analysis	September-November 2020 Oct.-Dec. 2020
Completion of After-Action Analysis	November 2020 December 2020
Presentation of After-Action Analysis to All Stakeholders	December 2020 January 2021

Summary of Interviews

- Thank you to all who were able to participate in the interviews.
- During the months of October and November, the After-Action Analysis team conducted outreach to schedule 15 interviews:
 - 12 were held via teleconference;
 - 2 elected to submit written feedback in lieu of a teleconference interview; and
 - 1 declined to participate.

Current Activities

- The After-Action Analysis team is currently preparing the draft report, which is under initial internal review.
- As part of this internal review, the FHWA Office of Project Development and Environmental Review, ACHP, FHWA Resource Center, and OHA Cultural Liaison will provide input.
- This internal review is anticipated to be completed by mid-January 2021.

Next Steps

- The After-Action Analysis team plans to provide a presentation to the FHWA Hawaii Division, HDOT, and the Section 106 Consulting Parties in late January 2021.
- The FHWA Hawaii Division has requested feedback on schedule preferences for this presentation. Date options are:
 - Thursday, January 28 – 9:00 am-12:00 pm HST
 - Friday, January 29 – 9:00 am-12:00 pm HST
- Feedback on schedule preferences is requested by Friday, December 18.

Next Steps

- The After-Action Analysis presentation will present the final report, including the team's findings and recommendations, and allow time for open discussion and feedback.
- Following the presentation, the FHWA Hawaii Division, HDOT, and Section 106 Consulting Parties will have 30 days to provide formal responses to the report.
- These responses will be appended to the final report.
- At any point in the process, should you have any questions or concerns, please let us know.

Thank you.

If you have any questions or comments, please contact Rob Ayers.

David Clarke

FHWA Office of Project Development
and Environmental Review

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P: 202-366-2060

Mandy Ranslow

Advisory Council on Historic Preservation

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P: 617-494-2207